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THE NEW REPUBLIC

LAMAR'S LAST STAND
Dana Milbank

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David Bromwich

ugust 23, 1999

Growing the Inner City?

Bill Clinton thinks the answer to poverty is capitalism.

Too bad it hasn't quite worked in Harlem.

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4 **CORRESPONDENCE** Second opinion on the Second Amendment, Hollywood's false view of America, &c.

6 **JOHN B. JUDIS** TRB: CASH OUT What the presidential candidates say they'd do to fix our campaign finance system.

8 **JONATHAN CHAIT** ON THE HILL: PIE IN THE SKY What budget surplus?

11 **THE EDITORS** THE ABUSE EXCUSE Hillary proves that she is a true Clinton.

12 **NOTEBOOK** Coddling North Korea, stiffing the poor, &c.

13 **JIM VANDEHEI** HOUSEMASTER Speaker Dennis Hastert has long been perceived as Tom DeLay's puppet. But now Hastert is the one pulling the strings.

15 **ELIZABETH NEUFFER** BOSNIA DISPATCH: HOMECOMING In a small corner of Republika Srpska, Bosnian Muslims and Bosnian Serbs are learning to live together.

16 **MICHELLE COTTLE** SAY YES TO CRACK Liberals hate a new program that pays drug addicts to get birth control. But is it really such a bad idea?

18 **DANA MILBANK** CAMPAIGN JOURNAL: FINISH LINE The slow death of Lamar Alexander's long-sputtering campaign.

22 **TAMAR JACOBY AND FRED SIEGEL** GROWING THE INNER CITY? What Harlem's experience with capitalism can tell us about Bill Clinton's new "third way" plan to alleviate poverty.

28 **STANLEY KAUFFMANN** ON FILMS: VISITING THE GREAT Dostoevsky's life and art are not quite fused in *The Gambler*; a restored *Grand Illusion* is cause for celebration.

29 **DAVID BROMWICH** DOVER BEACHED *God's Funeral: The Decline of Faith in Western Civilization* by A.N. Wilson

33 **DAVID ROSAND** REASON'S SECRETS *The Renewal of Pagan Antiquity: Contributions to the Cultural History of the European Renaissance* by Aby Warburg, translated by David Britt

38 **PETER BERKOWITZ** REDUCTION AND BETRAYAL *The Problematics of Moral and Legal Theory* by Richard A. Posner

43 **JOHN UPDIKE** POEM *Religious Consolation*

46 **JACOB HEILBRUNN** WASHINGTON DIARIST: HOMEWORK

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CORRESPONDENCE

Second opinions

TO THE EDITORS:

Akhil Reed Amar does no service to the Second Amendment in his effort to tell us "what the right to bear arms really means" ("Second Thoughts," July 12). Perhaps the simplest way of suggesting why he does no service is merely by comparing texts. The first is the *actual* Second Amendment as is. The second is Amar's "modern translation." Put them side by side. Is the one but a clearer statement of the other?

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

> An armed and militarily trained citizenry being conducive to freedom, the right of the electorate to organize itself militarily shall not be infringed.

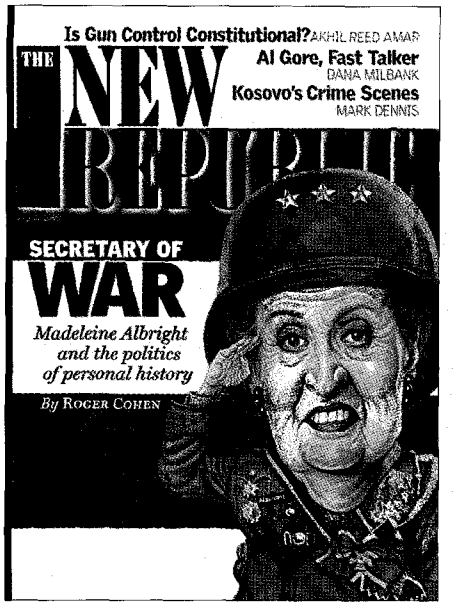
In each case, something seemingly quite specific is set forth as "the right" that "shall not be infringed." In the first example, it is "the right of the people to keep and bear arms," and in the second it is "the right of the electorate to organize itself militarily." What is expressly declared to be "the right of the people" (to keep and bear arms) has been pasted over by quite a different idea.

What if we reverse Amar's curious approach to this process? Suppose that the Second Amendment actually did read: "The right of the electorate to organize itself militarily shall not be infringed."

But people reading this provision might well express their own consternation because, having read it, they profess their uncertainty as to what *it* meant, cast in these strange and ambiguous terms. Along comes Amar. After patiently doing much scholarly homework, he pens his essay and concludes with what he proposes as a "modern translation": what the right of the electorate to organize itself militarily *really* means is that the right of the people to keep and bear arms shall not be infringed.

Howls would at once go up, of course. "This is surely just the work of some gun nut," one can expect to be the angry response. "If this were truly what was meant, *surely* language suitable so to declare the notion would appear on the face of the amendment!" Quite so.

WILLIAM VAN ALSTYNE
Duke University School of Law
Durham, North Carolina



TO THE EDITORS:

I applaud Akhil Reed Amar's penetrating analysis of the Second Amendment and would add the following: relating to the essentiality of an armed citizenry ready for military service in this country's early years as an independent nation, the words "keep and bear" in "the right of the people to keep and bear arms" should be interpreted as if hyphenated. This would underscore the connection between privately owned firearms and the mobilization of citizens for militia service. Thus, if the marshaling of privately armed citizens for militia duty were discontinued, the constitutionally protected right to keep arms for civilian purposes itself would become inoperative. This is what happened in the course of time. Today, military forces protecting our national security are equipped with weapons only the government itself provides.

The so-called "unorganized militia" (cited in statutory law but not mentioned in Amar's article) may have Second Amendment overtones. However, its ranks of armed male citizens between the ages of 18 and 45, their patriotism notwithstanding, are not the kind of reserves on which our government can sensibly depend for national security. In short, there are no restrictions in the Constitution on what government today can require for legally permissible private possession of guns.

DAVID STEINBERG
Executive Director
National Council for a Responsible Firearms Policy, 1968-1989
Alexandria, Virginia

TO THE EDITORS:

Akhil Reed Amar seeks to create a mystery regarding the Second Amendment where none exists. As Supreme Court Chief Justice Warren Burger once noted, the Second Amendment "must be read as though the word 'because' were the opening word" of the sentence, as in "[Because a] well regulated Militia [is] necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." While service in the general (also called unorganized) militia was a citizen obligation, it differed from jury service or voting in that it did not apply to all white male citizens (a fact noted by the Supreme Court in cases in 1886 and 1939). As the Congress that enacted the Bill of Rights noted in the Militia Act of 1792, the militia consisted of "every free able-bodied white male citizen of the respective states" between the ages of 18 and 45. It therefore omitted men over 45 and the infirm. Amar is also mistaken in saying that "virtually all male citizens were trained in the use of weapons and had them handy." As historian Michael Bellesiles has noted, from the colonial era up to 1850 no more then ten percent of the population owned guns, and the image of the average citizen as a skilled shot was repeatedly disproven in every major American war.

Amar is further mistaken in asserting that the modern National Guard is not the militia. Even early in the country's history, the militia was understood to be composed of two parts: the general militia and the organized or select militia (which trained more in the manner of professional fighting forces). The former withered away for the obvious reason that general militias, while certainly more democratic than standing armies, were lousy fighting forces. And the Second Amendment goal of encouraging men to keep firearms for military service failed from the start. Further, the abysmal defeats suffered during the War of 1812 effectively ended this form of national defense, even though militia "musters" continued for decades. In 1903, Congress passed the Militia Act, which stated that the "organized militia [would] be known as the National Guard."

To this day, the government maintains its authority to call up the old-style general militias. Yet the fact that it has not done so, choosing to rely instead on the military draft, is a testament to the false romanticism of Amar's vision of militias and the Second Amendment.

ROBERT J. SPITZER
State University of New York
Cortland, New York

TO THE EDITORS:

Bravo to Akhil Reed Amar! But what a

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shame that he did not carry his argument to its logical conclusion. The Second Amendment is the only amendment in the Bill of Rights that includes a rationale ("[the] Militia, being necessary to the security of a free State..."). As Amar notes, Madison's draft of the jury amendment had a rationale ("one of the best securities to the rights of the people"), which was dropped. There must be some reason why the Second Amendment is the only amendment to have survived the drafting and redrafting process with a clear statement of purpose. The logical explanation is that the Framers saw that rationale as the critical preamble to the right to bear arms—in other words, the "right" only applies within the context of the rationale. Amar shows that "the legal and social structure on which the amendment is built no longer exists." It then logically follows that, once the rationale is gone, so is the so-called "right to bear arms."

A hallmark of the Constitution is its flexibility and adaptability to changing times. Why then can't we admit that the Second Amendment, as written, is an anachronism?

DEBORAH LEWIS-IDEMA
Laurel, Maryland

AKHIL REED AMAR REPLIES:
These letters nicely recapitulate the old Second Amendment debate I seek to transcend. Libertarians like Van Alstyne fail to confront the key textual point that the word "people" implies a collective right, and the phrase "bear arms" has a military connotation. (As for my specific translation: although nothing in my essay turns on these words in particular, I stand by them—they obviously include the idea of "arms" both in the word "armed" and in the concept of a "militar[y]" organization.) Statists like Spitzer miss the main point that the amendment confers a right on the general citizenry—"the people"—as opposed to a small, self-selected cadre of governmental professionals like today's National Guard. If my reading "romanticizes" the general militia, so does the amendment itself, which proclaims that a well-regulated general militia of the people is "necessary to the security of a free state." Finally, I remind all concerned that they must confront the meaning of the Fourteenth Amendment—and its vision of a limited right to own a gun for personal protection—before their constitutional analysis can be considered complete.

Hollywood's America

TO THE EDITORS:
Stanley Kauffmann can defend *Natural Born Killers* and its ilk only by overlooking two large ways in which such movies falsify reality ("Citizen Cain," July 12).

The first is the filmmakers' message that American society is saturated in violence. Like most of us, Oliver Stone and Quentin Tarantino go about their business each day without witnessing so much as a fistfight, let alone a mob hit or serial murder; yet their imagined America is awash in death. And this is rationalized as some depiction of social truth.

Second, for all their splatter, today's movies still conceal the true effects of violence. On-screen victims bleed more than ever, but they still die instantly, never slowly and painfully; they never wind up maimed or forced into years of recuperation; and seldom do we see the appalling grief of those left behind. At bottom, the Stone/Tarantino style of screen violence is scarcely more real than a Roadrunner cartoon. Why? Too much realism and the violence stops being glamorous—and the filmmakers stop looking hip and cool. Show me they're willing to put that image at risk, and maybe then I'll agree they're "artists."

JEFF SMITH
Los Angeles, California

Broken logic

TO THE EDITORS:
In the July 12 Notebook item "Spinning the Bottle," TNR writes, "As ABC and Consumers Union barely paused to point out, if parents don't use clear plastic bottles with BPA, they'll have to use bottles made of glass, as past generations did. That would expose babies and parents and other children around the house not to some conceivable long-range danger of contamination but to the clear and present danger of having a finger sliced off or an eye gouged by shattered glass." First, I would point out that Consumers Union says prominently on the first page of its article that one can replace the bottles not just with glass bottles but also with bottles made of other types of plastic. Second, speaking of "skewed risk assessment" and "mini-panic" I wonder if TNR did any research to determine just how many fingers have been sliced off or eyes gouged in these past generations.

ROBERT BECKER
Boxborough, Massachusetts

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TRB

FROM WASHINGTON

Cash Out

THE OUTCOME OF the current contest for the Republican presidential nomination may be decided before any citizen votes in a primary or caucus. It will be determined by whichever candidate can get the highest number of wealthy people to write $1,000 checks. This is no way to run a democracy, and it is a result of our sorry system of campaign finance. Two presidential candidates, Democrat Bill Bradley and Republican John McCain, have recently addressed the flaws of this system and proposed remedies for them. The other major candidates have not. Al Gore has gone on the record endorsing campaign finance reform, and, in 1986, as a senator, he introduced major campaign finance reform legislation. But, when Bradley made his proposals, Gore's campaign chairman, Tony Coelho, who resigned from Congress in 1989 under a cloud of scandal, focused attention on Bradley's integrity rather than on the merits of his proposals. George W. Bush, one of the chief beneficiaries of the current finance system, initially took no position at all (the issue must not have been included in his talking points), but, forced to respond, he embraced proposals that would make things even worse.

America's original promise of political democracy was based on a premise of rough economic equality among the country's farmers and craftsmen, which, projected onto the political realm, would prevent the rise of tyranny and monopoly. But the growth of large-scale industry after the Civil War undermined this formula for success. Not only did it give the top tier of bankers and businessmen inordinate power over key economic decisions, it also gave them power, through their control of campaign finance, over government itself. During the twentieth century, there were two major efforts to reform the political system so that it could act as a public political counterweight to this private economic inequality. In 1907, Theodore Roosevelt sought to introduce public financing of campaigns but had to settle for barring direct corporate contributions. And, in 1974, in the midst of the Watergate scandal, Congress passed comprehensive reform measures, but they were undermined by perverse court decisions and by loopholes left in the legislation.

There are two ways in which our current system reinforces rather than counters this inequality of private economic power. First, most of the contributions to congressional and presidential primary candidates come from the nation's most wealthy individuals. In a study funded by the Joyce Foundation, researchers found that in the 1996 congressional elections, 81 percent of the donors had an annual family income of $100,000 or more, while 80 percent of Americans made no contributions at all to a candidate or political party. The Joyce study also discovered that contributors tend to be more conservative, more Republican, and more inclined to slash public services for the sake of a tax cut than the average voter. That's troubling when you consider that those who contribute gain inordinate influence over the political process and skew the results toward their own objectives. The current system also allows candidates to spend as much of their own money as they want, enabling fabulously rich individuals such as oil heir Michael Huffington and magazine heir Steve Forbes to wield far more influence over public debate than their wisdom or experience alone might entitle them to.

Second, there are the unregulated contributions that work their way back into elections. In 1979, to revitalize political parties, Congress began allowing them to raise unlimited and unrestricted "soft money" contributions to put toward "party-building" activities, such as voter registration. But, with the approval of the courts, parties have increasingly used this measure to garner huge contributions that can be used to directly influence election results—either through paying for overhead campaign expenses or through issue advertising. Soft money contributions are even more skewed by class than hard-money gifts to candidates. In 1996, 90 percent of the $203 million in soft money came from corporations, trade associations, and other business groups and businessmen. These kinds of spending were augmented by millions in independent expenditures that were not officially authorized by either candidates or parties and therefore escaped restrictions on disclosure and on the size of contributions. The AFL-CIO set the pace for independent expenditures in 1996, but, for 2000, one business coalition is planning to outspend the federation by five- or sixfold.

McCain, with Democratic Senator Russ Feingold, has sponsored legislation to address the second of these problems. McCain and Feingold want to ban soft money contributions to parties from corporations, unions, and individuals and to also ban the use of independent ads that specifically promote a candidate during the last 30 days before a primary and the last 60 days before a general election. Bradley's proposals echo those in McCain and Feingold's bill, but they also address the problems created by private financing of congressional elections. Bradley would have the public fund general elections and grant matching funds for contributions of $250 or less during primaries. He would also require television broadcasters to make free airtime available to candidates 60 days before an election. Bradley's proposal, which admittedly doesn't have to conform to the realities of today's Congress, would clearly go much further than McCain and Feingold in severing the tie between private wealth and public politics. Requiring taxpayer funds would certainly prove controversial, but, as the system continues to sour, citizens would have to weigh the money spent in public financing against the greater billions that special interests exact in subsidies and tax breaks as a result of their campaign contributions.

Characteristically, Bush initially said nothing at all about campaign finance reform, but, pressed by reporters in April, he announced that he favored *raising* the limits on individual contributions. Bush didn't say how high he would raise the limits, but in Texas, where the size of contributions is not restricted, 50 contributors to Bush's 1998 gubernatorial campaign gave more than $50,000 each. By itself, raising the limits would simply increase the role of wealth in financing elections. Bush took a similar stance toward soft money. Faced last month with questions about the McCain-Feingold bill, Bush declared that he would ban soft money contributions from corporations and unions but would not impose any limit on individual contributions. Since the bulk of individual soft money contributions come from wealthy contributors—for instance, the $100,000 contributors in the Republicans' "Team 100" Club or the Democrats' "Team 2000"—Bush's measure would not alter, and might even aggravate, the prevailing inequality of political influence.

Bush would clearly prefer the whole issue to go away. So, perhaps, would Gore and Coelho. But, thanks to a threat last month from McCain to attach his bill to other legislation, Senate Majority Leader Trent Lott was forced to agree to a debate and to vote on the McCain-Feingold bill this fall. That will present an opportunity—perhaps the last one before next year's elections—to grant the issue of campaign finance reform the prominence and attention it deserves.

JOHN B. JUDIS

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ON THE HILL

Pie in the Sky

CONGRESS HAS SPENT the summer in the thrall of a weird kind of giddiness. The discovery that the budget surplus may be a trillion dollars larger than previously believed has prompted visions of a kind of domestic End of History. No more scrimping and scrounging: there is talk of new tax cuts, paying off the national debt, new prescription drug coverage, and, well, pretty much anything anybody wants.

Yet somehow, even while it dreams of untold abundance, Congress finds itself virtually impoverished. The chairs of the various committees, charged with doling out the funds to run the federal government during the next fiscal year, have trimmed the FBI's budget and slashed science research—not because anybody believes these things are wasteful, but simply for lack of money. Even with these savings, the House leadership has sunk to new depths of chicanery and beggary. Recently, Speaker Dennis Hastert decided to fund the 2000 census as an "emergency"—who saw it coming?—and beseeched Republican governors to please donate any spare welfare funds to their needy brethren in Washington. Sounding a bit like a United Way commercial, Hastert implored, "We're trying to balance the budget."

Trying to balance the budget? What about those trillions of dollars in surpluses? Something here is profoundly screwy. To understand how it got this way, we must examine the paradoxically named Balanced Budget Act of 1997.

When President Clinton and the Republicans made a budget deal two years ago, each side received a little something. Clinton got a new health insurance program for poor children and a tuition tax credit, and the GOP got cuts in estate and capital gains taxes. In the ensuing jubilation over a bipartisan deal to balance the budget, few bothered to ask how the two sides managed to eradicate the deficit without requiring any sort of sacrifice.

In fact, they pulled it off by fiddling with something called discretionary spending. This is the money that the government spends on the military, education, highways, and everything else besides paying interest on the debt and entitlements such as Social Security and Medicare. While Congress can set the total level of discretionary spending years in advance, it doles out the funds to individual programs on a yearly basis. Clinton and the GOP took advantage of this by declaring that, starting two years later, Congress would begin to steadily ratchet down discretionary spending until 2002, culminating in—ta da!—a balanced budget. This is like claiming you'll lose 30 pounds by fasting all of next February—you're not going to do it, nor should you. Yet this farcical promise allowed the two sides to claim fiscal rectitude while leaving it to future Congresses to decide the cuts.

Now fast-forward to the present. Congress is trying to enact the cuts required by the 1997 act, and, to nobody's surprise, it can't be done. In the coming years it will get much harder still. By 2002, assuming the defense budget keeps pace with inflation, all other government operations will have to be cut by 20 percent.

Why, then, don't they just use part of this giant surplus to ease the domestic spending caps? Because without those caps, the surplus all but disappears. Here's how: when government economists calculate the size of the budget surplus, they assume that all current laws will be carried out into perpetuity. (As budget geeks, their role is not to question political assumptions, but dutifully to crunch numbers.) Since the sham 1997 Balanced Budget Act is on the books, the budget scorers assume that Congress will enact large discretionary spending cuts over the next few years and that the savings from those cuts will be used to pay down the national debt, which, in turn, will reduce the government's interest costs and create even larger surpluses. When you hear about the $2.9 trillion surplus from a politician, or read about it in the newspaper, or see it on the cover of this magazine, this is the scenario they are relying on.

But since that premise is implausible, so, too, is the projected surplus. Assume that, instead of enacting huge cuts in discretionary spending, Congress merely allows that part of the budget to keep pace with inflation. (Given that Congress has already promised to spend much more on highways and defense, this is a conservative assumption.) Then discount the portion of the surplus that derives from Social Security, which both parties have promised not to touch. Finally, figure in some emergency spending to cover the odd hurricane or military action. That pretty much takes care of the whole surplus. To be sure, it's possible that further economic growth will brighten the picture, but spending the money in the hope that it will eventually materialize is hardly fiscal conservatism. The on-budget surplus is almost entirely an illusion, the product of cooked books and wishful thinking.

At the time it was enacted, the cap on domestic spending was seen as nothing more than a convenient device to snatch a little political credit. Yet it has had a deleterious result that nobody imagined at the time. The phantasmal trillions flowing into the national coffers have so powerfully seized the imagination of Congress that any whiff of restraint has been swept away. They have also allowed conservatives to cast the debate as a choice between tax cuts and new government programs, when, in fact, the choice is between tax cuts and *existing* programs. The Republican budget assumes that future Congresses will cut domestic spending almost in half—a ludicrous proposition. If the president and Congress carve up the surplus between them—say, a tax cut and prescription drugs—then the practical result will be to plunge the budget back into red ink. The primary effect of the Balanced Budget Act, in other words, will have been to undo balanced budgets.

It is no longer surprising that such a result would delight Republicans—this, after all, was the essential fiscal policy of the Reagan administration, their golden age. On the other hand, one might expect Democrats to recoil from such recklessness. Yet many House Democrats, bought off by pork-barrel spending in their home districts, have supported reckless Republican spending bills.

This represents, at least, a traditionally Democratic sort of venality. What is truly baffling is the claque of Senate Democrats who have openly salivated for a giant upper-class tax cut. Louisiana Senator John Breaux, exemplifying the intellectual depth of this faction, recently appeared before a group of reporters chanting, "Tax cuts, tax cuts!" Nebraska Senator Bob Kerrey said of the GOP plan, "To me, this is a no-brainer. It increases Americans' income by $800 billion." Of course, any use of a surplus (including paying down the national debt) would increase Americans' income. The distinctive feature of the GOP tax cut for which Kerrey voted is that the Americans whose income would be increased tend to reside at the upper end of the income scale. It's one thing to sell out the broader interest on behalf of your own constituents and quite another to do it on behalf of the other party's constituents.

While the leading pro-tax-cut Demo-

continued on page 45

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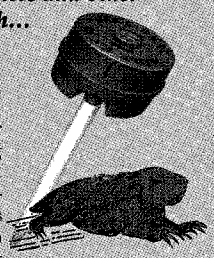

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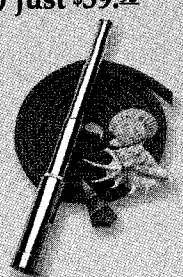

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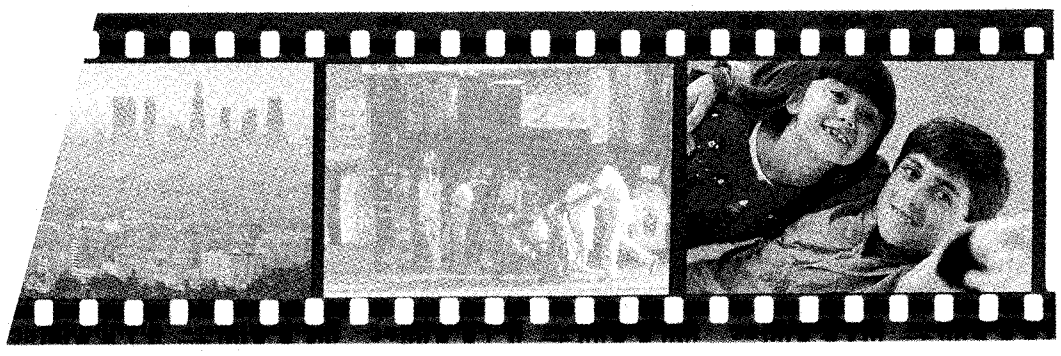

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National Journal

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The Abuse Excuse

IT HAS BEEN one of the central axioms of the era of Bill and Hillary Clinton that they are essentially unlike each other. He is flexible to a fault; she is inflexible to a fault. He is a creature of weakness; she is a creature of strength. He is sloppy; she is strict. He needs discipline and takes love; she practices discipline and gives love. He stands for everything, and answers to the political circumstances; she stands for one thing, and disdains the political circumstances. (The one thing that she stands for is liberalism, boldly unreconstructed.) He pleases; she scolds. He is an outward man, and comes alive only in the hot sun of publicity; she is an inward woman, and lives privately, and deplores the prurience of America.

These contradictions have had their uses, especially for her. Throughout the tacky constitutional crisis provoked by his appetitiveness, for example, Hillary Clinton seemed to acquire a new dignity. It was the dignity of victimhood, which is the highest dignity that American society now confers; but it was owed also to the impression that his behavior had offended against her own more noble and more exigent convictions about private obligations and public obligations. Her callous and grasping husband was suddenly a foil, and in the hour of greatest humiliation she attained to the greatest admiration. It made her leap into the Senate race in New York seem plausible, and even just: a wounded, good, brilliant woman was striking out on her own. Since she was so unlike him, there was no reason to dread her success, because it would not mean more Clintonism.

With a single interview in *Talk*, Hillary Clinton has demonstrated that this entire construction is a myth. She can be as slack, as exhibitionistic, as addled about moral matters, as calculating, as her husband. "I think it's a real disservice, the way we sort of strip away everybody's sense of dignity, of privacy," she observed about the criticism of her husband's mendacity. And then she proceeded to strip away her own, in "working through" her own understanding of last year's great drama. "Yes, he needs to be more responsible, more disciplined," she told *Talk*, "but it is remarkable given his background that he turned out to be the kind of person he is, capable of such leadership.... He was so young, barely four, when he was scarred by abuse that he can't even take [his mother's memoir] out and look at it."

Those are the words of an individual whose moral categories have been overwhelmed by psychological categories. This is not the discourse of introspection; it is the discourse of daytime television, and its cheap therapeutization of the entirety of existence. "I thought he understood it," Mrs. Clinton explained, "but he didn't go deep enough or work hard enough." But the president "has been working on himself very hard in the last year. He has become more aware of his past and what was causing this behavior." (The interlocutor from *Talk* even reports that the president's "friends" expect him to seek therapy after he leaves office.) So Hillary Clinton, like Bill Clinton, turns out to be a master extenuator. She has seized upon the tightest alibi that American culture has to offer. Her husband lied to his family and to his country, because he was an object of "abuse." He was—what else?—a victim. ("I didn't have a bed of roses as a kid," Bill Clinton remarked in the wake of his wife's remarks, though he added, "I have no complaints.") It is interesting to note that she describes the withering criticism of the president in the past year also as "abuse." The word is designed to disarm, to make criticism look stupid or cruel.

But what happened to Bill Clinton when he was four that makes adultery and perjury so understandable? Here the tale suddenly becomes a little comic. "There was terrible conflict between his mother and his grandmother," Mrs. Clinton explains. "A psychologist once told me that for a boy, being in the middle of a conflict between two women is the worst possible situation. There is always the desire to please one." That is why the political system of the United States was thrown into crisis! And that is why the most publicly humiliated wife in history finds it impossible to condemn her husband, or to maintain her silence about it.

We don't mean to be heartless, but by the standards of child abuse in America the competition for a boy's love between a mother and a grandmother doesn't seem all that punishing. And if being caught between two women really was "the worst possible situation," then why did Bill Clinton spend his life as a man reproducing it? The important point, of course, is that Mrs. Clinton's vulgar psychology has the effect of draining the

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moral reality out of adulthood. The scandal in the relationship between Bill Clinton and Monica Lewinsky was owed not only to the fact that she was young, but also to the fact that he was old. When he put the moves on her, he was 49 years old—that is to say, the statute of limitations on the explanation from his unhappiness as a four-year-old had long ago run out. Otherwise he had no right to ask the American people to vest him with the power of the office to which he aspired.

Why did Hillary Clinton utter these shallow and alienating things to a reporter? Her spokesperson now says that she was misunderstood, naturally. But she was triangulating, in the Clinton manner—except that the object of her triangulation was her spouse. The candidate was putting some distance between herself and the liability to whom she is married. What she was saying was, don't blame him, so don't blame me. Yet the exercise had the unwitting consequence of collapsing the distance between them, and making them both seem blameworthy and tiresome. And similar: her revelation to *Talk* is entirely consistent with the variety of panderings on policy questions that have characterized the early weeks of her campaign in New York. She, too, is just a situationist. Perhaps something in her childhood is making her flip and flop; but that is none of our business. What is our business is the abuse of American politics. ■

NOTEBOOK

EXIT BRIEFING: If anyone still doubts that the Clinton administration's policy toward North Korea—currently under a seemingly endless "review"—is both a pragmatic and moral failure, an article in the August 1 *Washington Post* should put an end to whatever illusions or confusion might be left. The piece, written by the husband-and-wife reporting team of Kevin Sullivan and Mary Jordan as they completed their four-year tour of duty covering the Koreas, was quite explicit about the fact that the North Korean government, which has allowed between two and three million of the nation's people to starve to death in the last few years, is "one of the cruelest regimes ever to rule a nation." Yet, according to Sullivan and Jordan, the despotic regime will "carry its cloaked inhumanity into the new millennium," largely thanks to the United States. For the U.S. diplomats whom the two reporters relied on as sources in Asia, "human rights is a secondary issue in North Korea." U.S. officials "do not intend to jeopardize fragile talks on ballistic missile and nuclear arms proliferation by raising emotionally charged human rights questions." Perhaps it was the fear of burning these amoral diplomatic sources that prevented Sullivan and Jordan from delivering this damning indictment a bit sooner in their tour, but that's another story. What's important for Americans to consider is Sullivan and Jordan's blunt calculation that "when we arrived in Asia in 1995, North Korea seemed like a nation on its knees," but now, "thanks in considerable part to foreign aid that has included $500 million from the United States . . . North Korea is standing taller—still wobbly but stronger." The aid was given, of course, in the name of "engagement"—in pursuit of the aforementioned chimerical arms control deals. In other words, the United States meekly submitted to North Korea's nuclear blackmail. This policy wasn't a mistake; it's a disgrace.

UNKIND CUTS: As Jonathan Chait notes elsewhere in these pages ("Pie in the Sky," page 8), that $2.9 trillion surplus everyone's talking about is premised on the somewhat dubious assumption that Congress will abide by the discretionary spending caps instituted as part of the 1997 Balanced Budget Act. And, if Congress doesn't abide by those caps, then the surplus disappears—and so does the Congressional Republicans' justification for their regressive $792 billion tax cut. It isn't very surprising, then, that House Republicans are looking high and low for ways to get under those spending caps. It also isn't very surprising that the Republicans' preferred solution is to make those spending cuts on the backs of the poor—the very same people who stand to gain the least from the tax cut. Consider this year's appropriations bill for the Department of Housing and Urban Development (HUD) and the Department of Veterans Affairs, slated to come to the House floor this week. According to Jeff Lubell of the Center on Budget and Policy Priorities, the bill underfunds HUD's low-income housing and community development programs, the latter of which is a key part of the Clinton administration's welfare-to-work efforts. By Lubell's calculations, the bill provides these programs with at least $900 million less than they received in last year's appropriations act and nearly $2 billion less than the Clinton administration requested for this year. One would hope that these cuts would lead to the bill's eventual defeat, but, since this year's bill is larded with spending for specific projects designed to attract the votes of specific lawmakers—it includes twice as many such earmarks as last year's bill—it's quite possible that pork will take precedence. Apparently, for Republicans, when it comes to tax cuts, the ends justify the means.

SECURITY LAPSE: This August 7 will mark the one-year anniversary of the bombings that devastated the American embassies in Kenya and Tanzania. The attacks, which killed 224 people, highlighted the alarming vulnerability of U.S. embassy buildings around the world and led Congress and the Clinton administration to adopt an ambitious $11.4 billion plan to build more secure facilities or shore up existing ones. Since then, the danger to American embassies has only increased: over the past year, the State Department has had to temporarily or permanently close 68 different embassies due to the credible threat of terrorist attack. Yet, so far, only one embassy, in Qatar, is slated to be replaced with a new building. According to *The Washington Post*, the delay can be attributed to everything from the difficulty of finding new building sites to wrangling between the administration and Congress over which embassies take priority over others. None of these problems, however, is sufficiently knotty to justify such unconscionable foot-dragging. If last year's horror show didn't serve as enough of a wake-up call, we shudder to think what will. ■

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Tom DeLay's puppet starts pulling the strings.

Housemaster

By JIM VANDEHEI

HOUSE MAJORITY WHIP Tom DeLay has never seen a gun restriction he didn't want to kill. He's the National Rifle Association's hit man on Capitol Hill, and, during his first 14 years in Washington, he shot down every gun-control measure in his sights. So why is the tough-talking Texan contemplating voting—for the second time this year—to impose an array of new laws on gun owners?

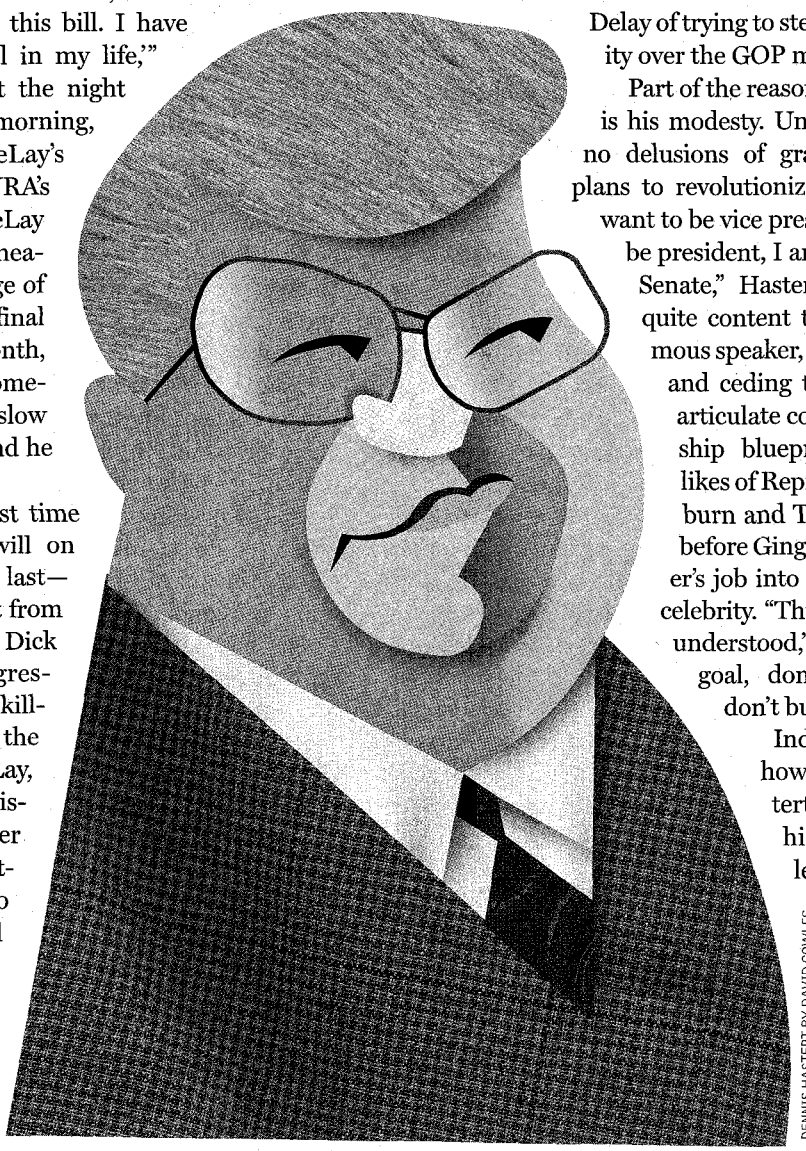
Because, he admits with some reluctance, House Speaker Dennis Hastert made him. DeLay says he was utterly against mandating new trigger locks, enforcing tougher restrictions on weapons sales at gun shows, and banning the importation of ammunition clips when the proposal first landed on Capitol Hill in June. "I raised hell and said, 'You're not going to get me to vote for this bill. I have never voted for gun control in my life,'" DeLay says he told Hastert the night before that June 18 vote. By morning, Hastert had changed DeLay's mind; unlike 82 of the NRA's other staunch supporters, DeLay voted for the gun-control measure, and, if a similar package of gun laws is written into the final juvenile justice bill this month, he'll likely do it again. "Sometimes I say, 'Tom, back off or slow down,'" Hastert explains. "And he does it."

The gun vote isn't the first time Hastert has imposed his will on DeLay, and it won't be the last—though you wouldn't know it from listening to Minority Leader Dick Gephardt and other congressional Democrats who have skillfully portrayed DeLay as the speaker's puppet master. DeLay, with his devilish grin and mischievous image, is much easier to vilify than Hastert, a soft-spoken former teacher who rarely utters a controversial word. And Democrats have done their best to give the impression that DeLay is running the show in the House. For most of the year, this strategy has worked—so much so, in fact, that a recent public opinion poll commissioned by the National Republican Congressional Committee (NRCC) found that DeLay was better known—and, consequently, less liked—than Hastert. But don't let DeLay's higher profile fool you. Hastert is the only person in Washington who can control DeLay, and, with little opposition from his controversial majority whip, Hastert is actually changing—for the better—how Republicans behave and how Congress functions.

Nowhere is the 57-year-old Hastert's subtle but salient influence more apparent than inside his 222-member Republican Conference. Hastert, who says he learned a host of valuable lessons watching former Speaker Newt Gingrich during his tumultuous four-year reign, has tamed his party's cannibalistic instincts and taught its members to work together—or at least to bite their lips when they can't. Under Gingrich, House Republicans, especially those in leadership positions, spent much of their time savaging each other rather than Democrats. But Hastert has salved the wounds of wars past and has somehow managed to appease even the most temperamental members of his party. Just this past week, Hastert brokered a truce between DeLay and Conference Chairman J.C. Watts after Watts accused Delay of trying to steal some of his authority over the GOP message machine.

Part of the reason for Hastert's success is his modesty. Unlike Gingrich, he has no delusions of grandeur or audacious plans to revolutionize the world. "I don't want to be vice president, I don't want to be president, I am not going to run for Senate," Hastert says. Instead, he's quite content to remain the anonymous speaker, toiling in the shadows and ceding the spotlight to more articulate colleagues. It's a leadership blueprint that served the likes of Representatives Sam Rayburn and Tom Foley quite nicely before Gingrich turned the speaker's job into a position of national celebrity. "This is what Newt never understood," says DeLay. "Set a goal, don't overpromise, and don't build up expectations."

Indeed, it's remarkable how much goodwill Hastert has engendered in his Republican colleagues simply by dint of the fact that he's not Newt. Gingrich's style was erratic and often chaotic, and he showed little interest in the views of his colleagues.



DENNIS HASTERT BY DAVID COWLES

JIM VANDEHEI is a senior staff writer for *Roll Call*.

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Hastert, by contrast, spends countless hours listening and learning before he determines an amenable middle ground. It sounds boring, but representatives love it. Republicans are not only reluctant to criticize Hastert publicly; I've been unable to find a single Republican representative willing to trash him even when offered complete anonymity. While many moderates may dislike the speaker's conservative dogma, Hastert spends too much time listening to their gripes and trying to accommodate their views for them to complain.

All of this camaraderie within the House Republican Conference has paid off. According to the recent Battleground Poll, a respected bipartisan survey conducted by Democratic pollster Celinda Lake and GOP pollster Ed Goeas, Republicans are now more popular with voters than Democrats are. The NRCC has raised $2 million more than it had at this point last year. And, under Hastert, the House GOP has chalked up a handful of legislative successes: a $792 billion tax cut, a proposal to shield the Social Security surplus from greedy members, a pledge to create a national missile defense system, and a plan to give states more authority over education spending. While the last three items are more symbolic than substantive, Hastert has, nevertheless, handed his fellow Republicans a list of accomplishments they can tout on the campaign trail.

With little fanfare, Hastert has also done in six months what Gingrich failed to do in his final two years as speaker: motivate party donors with tailor-made legislation. Hastert has provided computer executives and business owners with protection from lawsuits stemming from Y2K glitches, given corporate bigwigs a cornucopia of tax breaks, and allowed banking and insurance industry leaders the freedom to commingle their businesses. GOP strategists are expecting these investments in industry-specific legislation to pay huge dividends—in the form of campaign contributions—when the November 2000 elections roll around.

Hastert's accomplishments are particularly impressive when you consider that Republicans hold the narrowest congressional majority in decades. For most of the year, Hastert has worked with a six-vote majority—and that includes the dozen or so GOP moderates who, more often than not, prefer the Democratic position. On July 17, the majority was whittled to five votes when Representative Michael Forbes of New York switched to the Democratic Party. But Hastert's willingness to work with Republicans of all partisan stripes has minimized last-minute defections during crucial votes. The speaker points to the $792 billion tax-cut bill as the perfect example of his stealth authority. Conservatives thought the tax reduction was too small, and moderates assailed it as too big and too soon. Yet, when the final votes were cast, only four Republicans opposed him.

HASTERT, WHOSE FIRST six months have amounted to a collective repudiation of Gingrich's bellicose ways, has also worked assiduously to clean up the toxic atmosphere in the House. Having inherited a party known for little more than impeaching President Clinton and investigating every crevice of the chief executive's private life, Hastert met privately with a number of key House Republicans as soon as he became speaker and demanded that the partisan probes cease. He lopped the word "oversight"—a Washington euphemism for partisan investigation—off the titles of two key committees and quietly spread the word that Republicans should quit filing baseless ethics charges against Democrats. As a result, very few congressional investigations are currently in progress, and, since Hastert became speaker, no new ethics charges have been filed.

By most accounts, Congress is a kinder, gentler institution in 1999. Although Hastert rarely speaks to Gephardt anymore, according to Republican leadership aides—the speaker says he severed his ties with the House's top Democrat after Gephardt broke his word during the gun-control debate—he has built bridges to other House Democrats. He's fairly tight with Gingrich's former nemesis, House Minority Whip David Bonior, and he enjoys good relations with several other members of the minority party. Earlier this year, as a gesture of goodwill, he handed Democrats some extra committee seats and money to pay for larger minority staffs.

STILL, DESPITE HIS success, Hastert has been unable to disabuse people of the notion that DeLay is secretly in charge. Hastert, of course, blames the Democrats and the media for propagating the "myth" that DeLay is pulling the strings of a "do-nothing" Congress. But Hastert—and his communications staff—deserve most of the blame for the speaker's perceived weakness. First, Hastert's low-profile accomplishments have been overshadowed by a few high-profile flubs, such as his inability to line up Republican support for a resolution supporting the U.S. intervention in Kosovo. Second, Hastert's handlers rarely make him available for interviews and hid him from the cameras for most of his first six months as speaker.

Even if he refuses to acknowledge his mistakes publicly, Hastert is learning from them and is trying to address his image problem. He has taken speech lessons, and, in the past month, he's begun to make the rounds of the Sunday morning talk shows, appearing on ABC's "This Week" and NBC's "Meet the Press." More importantly, Hastert recently asked DeLay, who for most of this year seemed to be the only high-ranking Republican on television, to lower his profile, and DeLay has obliged: he has recently declined several talk show interview requests.

But don't expect Hastert to take DeLay's place in TV land. Instead, the speaker is pushing J.C. Watts of Oklahoma, the House's only African American Republican, as well as Jennifer Dunn of Washington state and Tillie Fowler of Florida—two of the House GOP's leading female lights—to increase their profiles. Hastert's strategy is to put a more diverse and less combative face on the House Republicans—a strategy that, not so coincidentally, jibes with George W. Bush's message of compassionate conservatism. "I think the country needs to see the broad scope of what this party is about, from articulate conservatives to very thoughtful and articulate moderates," Hastert says. "I like to see those people displayed out there while I sit back here and be the coach." ■

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Bosnia Dispatch

Homecoming

By Elizabeth Neuffer

KOZARAC, Bosnia

By all rights, Mladen Tadic, a Bosnian Serb, and Hamdija Kahrimanovic, a Bosnian Muslim, should be sworn enemies. In 1997, the war crimes tribunal in The Hague convicted Tadic's brother Dusan of persecuting and beating Bosnian Muslims while serving as a guard at the Omarska concentration camp during the Bosnian war. Among the prisoners at Omarska who suffered under Dusan's command and testified against him at his trial was Kahrimanovic. So it's a bit surprising to find Kahrimanovic casually stopping by at Tadic's café here in the town of Kozarac—deep in the heart of the Republika Srpska.

A year ago, no Bosnian Muslim dared set foot in this village without NATO protection. Indeed, the entire Kozara region, the scene of some of the most brutal ethnic cleansing by Serbian troops and paramilitary forces during the war and home to three of their most infamous concentration camps, once seemed permanently off-limits to its former Bosnian Muslim residents. Yet, in addition to Kahrimanovic, at least three other Bosnian Muslims are patronizing Tadic's café on this particular afternoon. It's not that Tadic has repented for his brother Dusan's sins: despite the preponderance of evidence to the contrary, he steadfastly maintains his brother's innocence. But Tadic says he's decided not to hold Dusan's conviction against his Muslim neighbors. "For me, the rule is, if someone hits you with a rock, you throw them a piece of bread," he explains. "The fact that they lied [about Dusan], that is their sin. Instead, we talk about Kozarac, and what should be done now. We need a shoemaker and a tailor, an electrician and a hairdresser. I'm planning to open a bakery, and I want to hire these Muslims who have no jobs." Tadic has already gone out of his way to help Kahrimanovic and the other Bosnian Muslims by jerry-rigging a temporary electricity supply for them.

It's possible that Tadic is acting out of kindness. It's also possible that he's acting out of pragmatism. Almost four years after the conclusion of the Bosnian war, Muslim refugees have finally begun trickling back into this area, and Serbs are now a minority again in Kozarac. At a time when the attention of the international community is focused on the prospects for getting Serbs and ethnic Albanians to live together again in neighboring Kosovo, the experience of Kozarac's Muslims provides a glimpse at both the potential and the limitations of such efforts at reconciliation.

Elizabeth Neuffer covered Bosnia for *The Boston Globe* from 1994 to 1998. She is finishing a year as the Edward R. Murrow fellow at the Council on Foreign Relations, where she has been writing a book about postwar justice in Bosnia and Rwanda.

Kozarac's Muslims were theoretically free to return long ago, under the 1995 Dayton peace accord that ended this country's brutal three-and-a-half-year war. The Western negotiators at Dayton had even dared hope that Bosnia—divided by ethnic cleansing and then, by Dayton, into two ethnic halves, the Muslim-Croat Federation and the Republika Srpska—would reintegrate over time. But, so far, only 600,000 of the 2.2 million Bosnians displaced during the war have returned home; of those, only 100,000 have crossed ethnic lines and chosen to live in their old homes, where they are now an ethnic minority.

For one thing, in contrast to the recent war in Kosovo, Bosnia's war dragged on long enough that some people made new lives abroad. NATO's failure to arrest war criminals didn't make the prospect of returning any more attractive. Nor did the fact that some of the refugee homes rebuilt by aid agencies were quickly bombed back to rubble by disgruntled locals. As for the Serb, Bosnian Muslim, and Croat leaders who signed Dayton, while they publicly welcomed the return of minorities to the areas under their control, they did everything they could to stall the process bureaucratically.

But, in nearby Prijedor, the area's governing city, moderate Serb leaders who have won control of the municipal government are beginning to realize they will lose foreign aid—which now promises to dwindle in light of Kosovo's needs—if they don't welcome minorities back. So, they have taken some tentative steps in that direction, allowing Muslim homes to be rebuilt by aid agencies in devastated towns such as Kozarac and letting elected Muslim officials sit in the municipal government.

A growing number of Bosnian Muslims appear willing to test the Serbs' new attitude. In November, seven families braved two bomb attacks to move back to Kozarac. Now approximately 240 people, most of them elderly, live in partially reconstructed homes. There is no electricity, no running water, no hospital, no school, no mosque—while Bosnian Serb authorities may say they have welcomed back the Bosnian Muslims, they are taking as long as possible to deliver key services to them.

Across the nearby Sana river, about 500 Bosnian Muslim refugees also decided to return to their Serb-controlled villages this summer. Stalled European Union funds have delayed the official rebuilding efforts there, so the refugees are camping out. In the village of Hambarine, about 80 people are squatting in the mildewed remnants of the former school. Plastic sheeting serves as doors and windows; women sleep in one room, men in another, and all take their meals in a communal room, where a cook makes do over a rickety woodstove. "If no houses are rebuilt by winter, we'll all live in a communal center we are rebuilding," vows their ad hoc leader, Alija Sikiric.

Perhaps most remarkable are those returnees who, like Kahrimanovic, survived Bosnian Serb concentration camps. Some say their fears have been calmed by recent NATO detentions of war criminals—the area around Kozarac is the only part of Bosnia where a significant number have been detained. "At least half of the war criminals are arrested now," says Almir Krkic, a tall, gangly 26-year-old survivor of

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Omarska who is now living in Hambarine. "I still have nightmares, but it's better to be back." But other camp survivors have simply resigned themselves to the prospect of running into their former jailers in the street.

Ismet Fazlic, a Bosnian Muslim, strolls by Tadic's café and waves. He falls under the "resigned" category. A Bosnian Serb family friend murdered one of his four sons when war broke out in this northwest Bosnian town in 1992. Neighbors rounded up two of Fazlic's other sons and put them on a bus bound for the Omarska concentration camp; they were never heard from again. Fazlic, 76, survived the horrors of other area concentration camps. Nonetheless, he moved back to Kozarac this summer—even though the men he holds responsible for his sons' deaths still live down the road.

"This is my land," he shrugs by way of explanation. After seven years, he was tired of being a refugee. "This is where I can be free. What would you do if your grandchildren took you by the hand and asked, 'Where is our house?'"

Recently, Fazlic was approached by one Kozarac resident who, he claims, served as the deputy commander of the Trnopolje concentration camp. "What are you going to do, kill me?" Fazlic says he told the man. "Go ahead, I have nothing left to lose."

If the return of Kozarac's Bosnian Muslims is a testament to the enduring power of the human spirit, unfortunately it also testifies to the enduring and corrupting power of nationalism. While most returnees care only about coming home, some of their leaders see it differently. Former Bosnian Muslim general and nationalist Mehmed Alagic recently visited Hambarine and pronounced to local TV reporters that he was happy to have regained such a "strategic" village. (A few mortars fired from the town's hill would wreak havoc on downtown Prijedor.) In response, local Bosnian Serb politicians tried to oust the Bosnian Muslim deputy mayor.

Whether politics can be stripped from the issue of allowing refugees to return is the abiding question for Bosnia. "People have realized the war is over, and they can return home and not get killed," says Milburn Line, the Prijedor representative of the Office of the High Representative, the agency in charge of Bosnia's civilian reconstruction. "But the real question is: Is this sincere? Are they really going to stay? Do they really want to live with each other?"

In Kozarac, it remains to be seen whether neighborly relations can transcend politics, hatred, and even memory. If the betrayal here between neighbors was intimate, so must be the reconstruction, and, so far, results are mixed. Some local Serbs say they still hate their Muslim neighbors. "I would never like to see them again in my life," says Branka Borovica, who runs the local Café Grmec.

But many, like the Bosnian Muslims and Bosnian Serbs mingling at Tadic's café, have abandoned nationalism for neighborly pragmatism. If Kozarac is to flourish again, they reason, they'll have to learn to live with their differences. That's why Tadic's attitude is so encouraging. "You know who's not thrilled about Muslims returning: those who robbed their homes and made money during the war," he says. "But we all lost to those people. It's the same mafia now that is trying to poison things. But reconciliation will happen. It's just a matter of time." ■

Cash for contraception.

Say Yes to CRACK

By MICHELLE COTTLE

IT'S BEEN QUITE a summer for Barbara Harris. In recent weeks, the 47-year-old soccer mom from Southern California has been accused of racism and genocide, compared to Adolf Hitler, and characterized as "misguided" and "immoral." Her sin? Spearheading a program that gives drug addicts $200 in exchange for getting long-term birth control—hormone implants, injections, IUDs, tubal ligations, or vasectomies.

The nonprofit through which Harris runs her crusade is called Children Requiring a Caring Kommunity, or CRACK. Funded by private donations, CRACK's cash-for-birth-control offer was launched in late '97. Since then, the group has distributed flyers and erected billboards in California, Minnesota, and Florida with the message: "IF YOU ARE ADDICTED TO DRUGS, GET BIRTH CONTROL—GET $200 CASH." CRACK doesn't provide the contraception; participants must find their own doctors and obtain documentation of the procedure. As of July, 59 current and recovering addicts—all women—had taken Harris up on the offer.

Until recently, CRACK had garnered only modest attention. But in mid-July, the program expanded into the Chicago area, and all hell broke loose. *The New York Times*, the Associated Press, and *The Washington Post* pounced on the program, focusing on swelling criticism from groups such as Planned Parenthood and the ACLU. Despite CRACK's voluntary nature, it seems that many people consider it a throwback to the days of forced sterilization. "When you dangle or give $200 to somebody who's a drug addict, it seems coercive," says Priscilla Smith, of the Center for Reproductive Law and Policy. Other critics complain that CRACK doesn't deal with the larger issue of addiction, while still others charge that it targets poor minorities.

All this hand-wringing, however, is misplaced. Yes, the program has problems—including its ridiculous name—and there may be a depressing element of truth in many of the charges against it. But CRACK's offer is not the moral abomination its opponents suggest. It is, in fact, a pretty good idea, and far preferable to the ways this society currently addresses—or ignores—the tragedy of addicts having babies.

Exact figures are hard to come by, but a report by Columbia University's Center on Addiction and Substance Abuse estimates that each year in the United States some 500,000 babies are born who have been prenatally exposed to illicit drugs. Many don't survive. Many suffer neurological damage. Even those who emerge physically unscathed face a less than rosy future: the foster care system is overflowing with children taken from drug-addicted parents. Our prisons are crammed with mothers doing time for drug offenses, their

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offspring sloughed off on relatives, friends, or the state. And these kids are the lucky ones. Research shows that the children of alcoholics and drug addicts are at much higher risk for abuse and neglect than other children. One particularly gruesome anecdote in the news last September featured an Atlanta crack addict who, to support her habit, was prostituting her nine-year-old daughter. When the woman's seven children were at last taken away because of other abuse, she began selling her nieces' bodies.

Barbara Harris is intimately familiar with the plight of drug-afflicted babies. She and her husband have adopted four of eight children born to the same crack-addicted mother. Year after year, Harris recalls, a social worker would phone to say, "She's had another baby." In 1994, Harris founded CRACK as part of a push for legislation that would enable California to mandate contraception for addicts. When that campaign failed, Harris decided to pursue a more market-oriented approach.

Which brings us back to the current uproar over CRACK's cash-for-birth-control offer. "It's simply a bribe for sterilization, and that's improper and it's wrong," Steve Trombley, head of Chicago's Planned Parenthood, told *The New York Times*. Alas, Trombley's description of the program is also wrong. Tubal ligation is only one contraceptive option offered to CRACK participants. Women can also choose from several temporary forms, such as implants, IUDs, or injections. Moreover, financially coercive social policy is nothing new to this country. (Just scan the fine print of the 1996 welfare reform bill.) Thus it seems slightly disingenuous to get squeamish about this particular program, which happens to be voluntary and privately funded.

What makes CRACK's offer uniquely insidious, critics say, is that it targets women who are so drug-addled that they can't possibly make a rational decision about whether to participate, much less choose between sterilization and, say, an IUD. It's an issue of "informed consent," explains Priscilla Smith. For the moment, let's ignore the implied corollary that it's morally preferable for addicts to continue producing drug-afflicted babies than to risk the possibility that someone might seek birth control without fully weighing her options. Assume these women are driven purely by their lust for more drugs. Why would they bother getting their tubes tied when other methods are quicker and easier? In California, for instance, women can't just flop glassy-eyed onto an operating table and demand a tubal ligation: a waiting period, counseling, and consent forms are mandatory. If all an addict wants is $200, the contraceptive paths of least resistance are also the most reversible.

Of course, some women have legitimate reasons for seeking a permanent fix. Sharon Adams had already given birth to 14 children by the time she contacted Harris. (Four died. Nine are in foster care. She's raising the youngest.) Collectively, CRACK's 59 participants have been pregnant 436 times. (Of these pregnancies, 167 ended in abortions, 22 in stillbirths, and 22 in deaths from complications; 179 of the children are in foster care.) Forty-three of these women chose tubal ligations. Maybe they were too confused to know better. Or maybe they decided it was time to call it a day.

As it turns out, the permanence of sterilization is not really the issue. Critics say they would object to CRACK even if it promoted only temporary birth control. Trombley points out that Norplant is much easier to insert than to remove, meaning that some women might have difficulty finding a doctor to take out the device. (Of course, Planned Parenthood clinics perform removals all the time.) Smith, meanwhile, expresses concern that some women might not fully consider "the impact" of a contraceptive like Norplant on their bodies. A woman has a smack habit, and we're fretting about the potential "impact" of Norplant? What about the "impact" of multiple pregnancies? Multiple births? Multiple abortions? Even if you choose to ignore the effect of drugs on an addict's baby—and the impact of these children on society—the "impact" of birth control on the addict is almost certain to be less physically and emotionally corrosive than the alternatives.

Reproductive rights aside, it's the idea of giving money to drug users that really offends some folks' moral sensibilities. "You're feeding their habit" is an oft-voiced objection. Maybe—although some women say they used the money for non-illicit purposes. But even if every participant blows the $200 on crack, smack, or crystal meth, what have we lost? The point of this particular campaign is not to get people off drugs; there are—or should be—bigger and better programs to tackle that job. CRACK merely aims to contain the damage addicts do in the meantime, in much the same spirit as does a needle-exchange program. Just as a junkie will shoot up whether you provide him with the necessary hardware or not, these addicts, with or without CRACK's $200, will find a route to that next high. (And, along those lines, keep in mind that cash-strapped women all too often score drugs by selling their bodies—or their children's bodies.) The cash is the key to this program. Free birth control has long been available to poor women, but visiting the local clinic just isn't a high priority for most addicts. If $200 will get a woman through the door, fabulous. She is doing the right thing, even if for the wrong reasons.

PERHAPS THE MOST high-minded criticism of CRACK is that it doesn't address the root problem of addiction. "[I]f you want them not to have children, it seems ... the thing that we really ought to do here is to get them out of drugs and get them healed," argued the Claremont Institute's Eloise Anderson in an appearance on Fox News Channel. Absolutely true—and totally beside the point. Yes, in a perfect world, all addicts would be gently ushered into therapy and nursed back to health. But this is America. Drugs are not considered a public health concern but rather a criminal one. Our preferred handling of addicts is to lock 'em up—which is, in fact, increasingly what states are trying to do with pregnant drug users. In recent years, some 240 women in 35 states have been prosecuted for delivering drugs to their fetuses. Most of the cases have been struck down, but South Carolina's Supreme Court has upheld such prosecutions. The state's doctors and drug counselors must now alert the authorities if they know of a pregnant woman's drug use.

On the legislative end, South Dakota, Minnesota, and Wisconsin have enacted laws allowing pregnant users to be involuntarily confined for the protection of the fetus. At least 14

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more states have similar laws in the works. In their reports on CRACK, both *The New York Times* and *The Washington Post* suggested that the program is part of this punitive trend. In reality, it seems a humane alternative. CRACK may not push women toward treatment, but neither does it discourage them from seeking help—which is, sadly, the effect of laws seeking to confine or prosecute pregnant users, according to a study by the Robert Wood Johnson Foundation in Princeton, New Jersey. Moreover, rather than ignoring women until they've conceived and then treating them as mere baby machines to be monitored until delivery, CRACK allows addicts to take action to avoid the pitfalls—and increased hostility—they face once pregnant. Platitudes about our desire to help drug users notwithstanding, the only figure this society views with more contempt than a crack whore is a pregnant crack whore.

Finally, there are the charges that CRACK's offer is racist, because the majority of billboards and flyers are placed in poor, urban neighborhoods. Certainly drug addiction is an equal opportunity destroyer. But a rich addict living in Bel Air would be less likely to jump at $200 than a poor addict in Watts. CRACK is a *voluntary* program. If people aren't enticed by the money, there is nothing anyone can do.

In response to charges of racism, Harris offers a personal defense: her husband is African American, as are her four adopted children. More compelling, however, seems to be the racial breakdown of program participants: thus far, 26 have been white, 23 black, and ten Latina. And again, before condemning CRACK's impact on minorities, look at the alternatives. Of the 240 women prosecuted for drug-pregnancy offenses, three-quarters were minorities, according to the Robert Wood Johnson Foundation. Of the 41 women arrested in South Carolina, 40 were black. And, as columnist Clarence Page, an African American who has emerged as one of Harris' few media defenders, pointed out, "Compared to the damage crack cocaine has disproportionately done to black and Latino Americans, Harris' bribe-for-no-babies plan pales."

All that said, this program does have its problems. First off, there's the name. Fair or not, crack is seen as the drug of poor blacks. By calling the organization CRACK, Harris invites the criticism that she's targeting minorities. The program also tends to go overboard with its gritty advertising tactics. One set of flyers challenged: "DON'T LET A PREGNANCY RUIN YOUR DRUG HABIT." Though attention-grabbing, such a cynical pitch suggests a certain callousness toward the women involved.

But this doesn't mean we should chuck the baby out with the bathwater. It merely suggests that cooler heads than Harris's should get involved. The cash-for-birth-control plan has merit, and people concerned about these women's rights should stop vilifying CRACK and start thinking of ways to iron out the wrinkles. Volunteers could contact participants about seeking treatment. Additional safeguards could ensure that those who express a preference for sterilization fully grasp the consequences. No one is suggesting that CRACK is the answer to our drug problem. If anything, it's a sad admission of our failure to address the problem. Things being what they are, though, this program can, at the very least, be seen as a necessary evil. And compared with the suffering caused by addicts who continue to bear children they are neither equipped nor inclined to care for, it is most definitely the lesser evil. ■

Campaign Journal

Finish Line

By DANA MILBANK

OSCEOLA, Iowa

IS THIS HOW a campaign dies? Lamar Alexander stands in the back of a borrowed Winnebago with his shirt off and his pants unbuttoned, in full view of the press corps (which, in this case, consists of me). As he dresses hurriedly, the Lamarmobile careens down a highway in southern Iowa at 70 miles per hour, trying to get the presidential candidate to a TV interview.

Only moments ago, Alexander was to have done a conference call with ten New Hampshire reporters, but his cell phone conked out, sending the bug-spattered Winnebago on a harrowing back-roads hunt for a telephone. Finally, the RV pulled into the driveway of the Clarke County Farm Bureau, and the presidential aspirant, emerging from a cloud of dust, begged to use a phone. "For those who say the race is over, I'm saying it's just starting," Alexander argued into the receiver as he sat in the borrowed Farm Bureau office. "It has to be earned, and I'm out here earning it."

That's for sure.

It's been a rough ride for Alexander on the campaign trail this year. The man who became a contender here in 1996 and who many once thought would have a serious shot at the presidency in 2000 has recently been deluged with phone calls from supporters urging him to drop out. Practically broke, Alexander has had to lay off staff and move virtually all his workers to Iowa. I had planned to meet with his Web expert, but the poor fellow was sacked before I had the chance. And, as I travel with the candidate, Alexander's vaunted field team in Iowa has been struggling to draw more than a dozen spectators at many events.

If this continues, the death of the Alexander campaign will occur on August 14 at the straw poll the state Republican Party will hold in Ames, home of Iowa State University. Though the Iowa caucus won't happen for another six months, the straw poll has gained such prominence this year that the 12,000 votes cast there will likely end the campaigns of half the field. "Things are developing so early, it's as if it *is* the caucus," says former Iowa Governor Terry Branstad, who is Alexander's campaign chairman. Most vulnerable are candidates, such as Alexander, Dan Quayle, Gary Bauer, Pat Buchanan, and Elizabeth Dole, who haven't been able to keep pace with Bush's fund-raising—and will likely see all the money shut off if they bomb in Ames. Alexander, it's fair to say, is out of the race if he doesn't place in the top three; he'll either drop out or become an unfunded irrelevancy, like Alan Keyes or Orrin Hatch.

Alexander has cast the straw poll as a fight to the death between the big-money forces of George W. Bush and Steve Forbes and the tradition of grassroots politics that has defined the Iowa caucus. As Alexander tells it, the very

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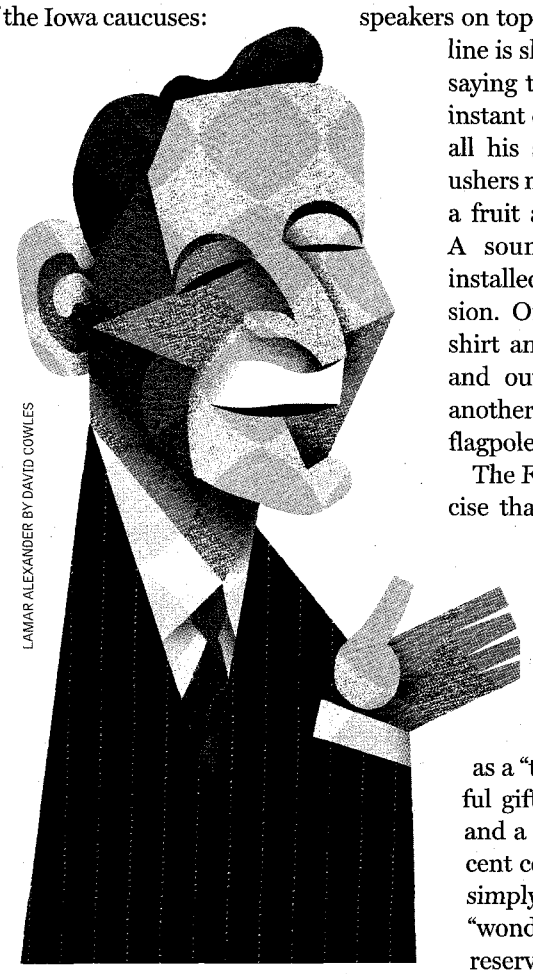
future of Iowa's first-in-the-nation status is at stake. "If all you have to do to win the Iowa caucus is show up at Des Moines airport and bring a couple of bales of hay, then there isn't going to be any Iowa caucus," Alexander tells his meager audiences everywhere. "You'll never see another candidate in"—fill in the name of whatever cow town he's in at the moment—"because they don't have to. They can just spend money." It's not about me, Alexander tells them, it's about you. "You can help save the Iowa caucus. Your showing up on August 14 will make sure we keep this part of American history. With me you get two votes for one. It's a vote to save the Iowa caucus."

Not that anybody's listening to Alexander, but it's quite possible that he's right. Bush's likely victory in Ames will demonstrate that a big bank account, with its accompanying press coverage, matters more than grassroots organization and retail politics. "It's a real test of the Iowa caucuses: Can people beat money?" Branstad asks. If not, we're all back to the smoke-filled rooms where candidates were chosen by party bosses instead of primary voters. Only this time it's the wealthy check writers who do the voting. Alexander has spent his few remaining funds on TV ads in Iowa featuring a mock news report that says, "The Iowa caucuses have been canceled—an auction is under way on the White House lawn." In the video, men in Western attire, obviously meant to represent Bush's backers, are bidding for the GOP nomination.



LAMAR ALEXANDER BY DAVID COWLES

WHEN I CATCH up with Alexander's "Iowa Homecoming Tour," which will take the Winnebago (borrowed from a supporter) to 60 Iowa counties before the Ames poll, he is in Council Bluffs, in the western part of the state. "So, how you been?" the bartender at Dirty Harry's restaurant asks the candidate as Alexander arrives for yet another event in the tavern. Lamar's 20-year-old son, William, who has been stuffing envelopes late into the night, is struggling to tape an Alexander sign to the front door. Finally, he makes his way upstairs to the event, which is a politician's nightmare: there's practically nobody there and a CNN camera is rolling.

I turn to one woman and ask her if she's for Lamar. The woman, Mary Jones, laughs; she's a local organizer for Dole. "I don't look at him as a threat at all," says Jones, enjoying the free lunch. "When he has an event at twelve noon and there's six people here, it works for me." About two minutes into Alexander's speech, the CNN crew breaks down its equipment and shuffles out noisily. He turns and watches like a lounge singer seeing the last patron walk out on his act. Moments later, the local radio reporter has had enough, and she steps in front of Lamar to remove her microphone. When I check the sign-in book, there are only three names, including one person from Florida and one from Nebraska. Dennis Warm, a Republican eating lunch downstairs with his wife, doesn't bother to listen to Alexander. "What we want now is a winner," says Warm, likely a Bush man. "There's nothing he can say to me that would change my mind."

THE CONTRAST COULD hardly be greater between Alexander's sad operation and Steve Forbes's campaign, which is blessed with unlimited funds from the publisher's personal fortune. When I join Forbes's Iowa bus tour later in the week at a restaurant in Denison, a town in western Iowa, there are two shiny touring coaches outside with speakers on top and Forbes banners attached. "The line is short for the photos," a Forbes aide is saying to guests as I enter, referring to the instant digital images Forbes poses for with all his supporters. A smartly attired aide ushers me to a seat, where somebody whisks a fruit and croissant plate in front of me. A soundman wearing headphones has installed a speaker system just for the occasion. One young man in a Forbes tennis shirt and baseball cap carries two flags in and out for this and every event, while another identically dressed aide carries two flagpole bases.

The Forbes operation is so lavish and precise that the Iowans are captivated. Steve Grubbs, a former state GOP chair now with Forbes, delivers a hard sell. "We want to give you a very special offer," he says as four staffers hand out glossy pledge cards. For each person who agrees to take five friends to Ames as a "team leader," "we have a very beautiful gift ... a gold Forbes 2000 lapel pin" and a bus tour T-shirt, "one hundred percent cotton, of course." For those who will simply go to Ames with Forbes, there are "wonderful silver lapel pins," and "we'll reserve you a seat on this air-conditioned bus—nice thick seats." Perhaps half the people in the room fill out the cards without hesitation (Alexander averaged only a few at each stop) and rush to collect their laser-printed photos. The crowd is so taken with the Forbes machine that even a local reporter who came to cover the event fills out a pledge card.

Gary Bauer's campaign charges that Forbes is spending some $700 per Ames-poll vote in ads, calls, mailings, bus rentals, and entertainment. The head of the Iowa Christian Coalition, Bobbie Lee Gobel, even claimed that Forbes wanted to hire temps to vote for him on August 14 (Forbes denies it, and the coalition has fired Gobel). Another rumor has it that Forbes is flying Margaret Thatcher to Ames for

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the day. The campaign will have spent some $10 million this summer on ads, largely in Iowa and New Hampshire; staffers will have called more than 250,000 Iowans and reached another half million or so by mail. All this is coordinated with the lavish bus tour.

Bush, the other big spender, is rumored to be bringing Arnold Schwarzenegger to Ames. He paid an astounding $43,500 to rent a 60,000-square-foot strip of lawn in the college town after Forbes bid up the price. Bush also tried to pay for the plot with soft money—big checks from six friends—but reversed course after others attacked him. In addition, Bush hired a top national phone bank, and the campaign strong-armed 50 Washington lobbyists to recruit 15 Iowans each to go to the Ames poll.

Then there's Lamar, who is bringing lesser celebrities and spent only $4,300 for his plot of land. "Governor Bush has a jet called Great Expectations," Alexander likes to say to crowds. "I have a borrowed Winnebago called Exceeding Expectations."

AT THIS MOMENT, the Lamarmobile, retreating from the embarrassment in front of the CNN camera in Council Bluffs, is heading south to Sidney, a town of 1,200, which, according to the locals, hasn't had a visit from a presidential candidate in at least 30 years. But Alexander is looking everywhere he can. He stands before a crowd of 18 in AJ's Steakhouse and Saloon, where the bar stools are swiveling saddles and peanut shells cover the floor. The audience is a typical Iowa crowd: several older folks, many of them heavyset, and lots of men in baseball caps. Alexander's speech is sensible, complex, intelligent—and uninspiring. I take a walk to Casey's General Store across the town square. "You going to see Lamar?" I ask the woman behind the counter.

"Who?" she asks.

"Lamar Alexander."

"Never heard of him."

"He's running for president," I tell her.

Another woman working at the store shrugs. "I never heard of him, either." A stop at the drugstore produces the same response.

But Lamar figures if he can persuade just a few people at each stop to go to Ames, he might squeak into the top three—thereby saving his candidacy. After his speech, he tucks into a chocolate pie and works hard on a corn farmer for ten minutes, talking about trade, corn prices, and ethanol. "He's got my interest," the farmer says later. So will he go to Ames? The man hesitates. "I got a lot of farming to do," he says. The local organizer approaches Alexander's son, William, looking apologetic. "The pledge cards aren't getting filled out," she says. "You want me to follow up with phone calls?"

Back on the Winnebago, Alexander looks on the bright side. He drew 18 people in a town of 1,200, he says, doing a calculation in his head: "In New York, it would be as big as a Garth Brooks concert in Central Park." As the Lamarmobile pulls away, a local man shouts at the driver for going the wrong way on a one-way street. The candidate, from the back, offers a wry suggestion: "Why don't we tell him we just blew in from Texas? Is this Dez Moinez?" Away from the public events, Alexander reveals some of the bitterness he feels toward Bush, who, he thinks, has bought the election. What infuriates Alexander is not losing but being denied a chance to compete, the chance underdogs Jimmy Carter and Ronald Reagan got in '76, George Bush senior got in '80, and Pat Robertson got in '88. "For the last thirty years, the Iowa caucus has been a way for a guy who's not rich and not famous to run for president," he vents. "Take that away, and what's the pool? People who have an inherited advantage, like Forbes or Bush. Or people who are very well liked by the Washington media, like Bradley or McCain. It's the rich and famous. In 2004 the Iowa caucus will evaporate, and it'll be Ted Turner versus Donald Trump."

As his campaign founders, Alexander has resolutely tried to keep his spirits up. "Who else can see America this way?" he says aboard the Winnebago. "Interrupting people at breakfast, sleeping in their houses." He delights in trivia of the road ("You know, Lewis and Clark went right by Council Bluffs," he tells his son) and in sharing the troubles of middle America (he actually seems to enjoy the endless discussions about gasoline additives and corn prices). He has become the Charles Kuralt of politics.

OUR NEXT STOP is Clarinda, Glenn Miller's birthplace, where Alexander peers through the window at the venue for his next rally, Vaughn's Café. "Ugh, more food," he says, slowly taking his jacket from the closet. There are 14 spectators here and a local reporter, and Lamar, now that the cameras have stopped rolling, gives a fabulous performance. When a questioner wants to know how he can compete with the Bush dynasty and Forbes's "modern marketing," Alexander replies, "I'm going to shake a lot of hands." After his talk, a friend who had written a column for *The Des Moines Register* makes the pitch for Ames. Amazingly, eleven of the 14 people in attendance pledge to go to the straw poll with Lamar.

At dinnertime, the Winnebago pulls into Shenandoah, a small, depressing town that long ago produced the Everly Brothers. Lamar brings his keyboard to play some tunes, and 50 or so locals crowd the restaurant, where Alexander signs are taped to beer kegs. Here, the candidate is at his best, telling folksy stories about the Everly Brothers, Teddy Roosevelt, and eastern Tennessee. After a painless stump speech, he rolls up his sleeves and begins the concert, singing first "Tennessee Waltz," then "Bye Bye Love." The Iowans love it, singing from their song sheets, some of them swaying arm in arm, others holding hands. Alexander closes with the Everly Brothers favorite "All I Have to Do Is Dream." It seems fitting for Lamar, a dreamer himself in this quixotic campaign: "*The only trouble is, gee whiz, I'm dreaming my life away.*"

A few minutes later, the dream is over, and we're back in the Winnebago, heading for a $38-a-night motel a couple of hours down the road. Alexander whistles a tune, sings a few lines to himself, and drifts off to sleep. And the Winnebago rumbles between cornfields into the dark Iowa night. ■

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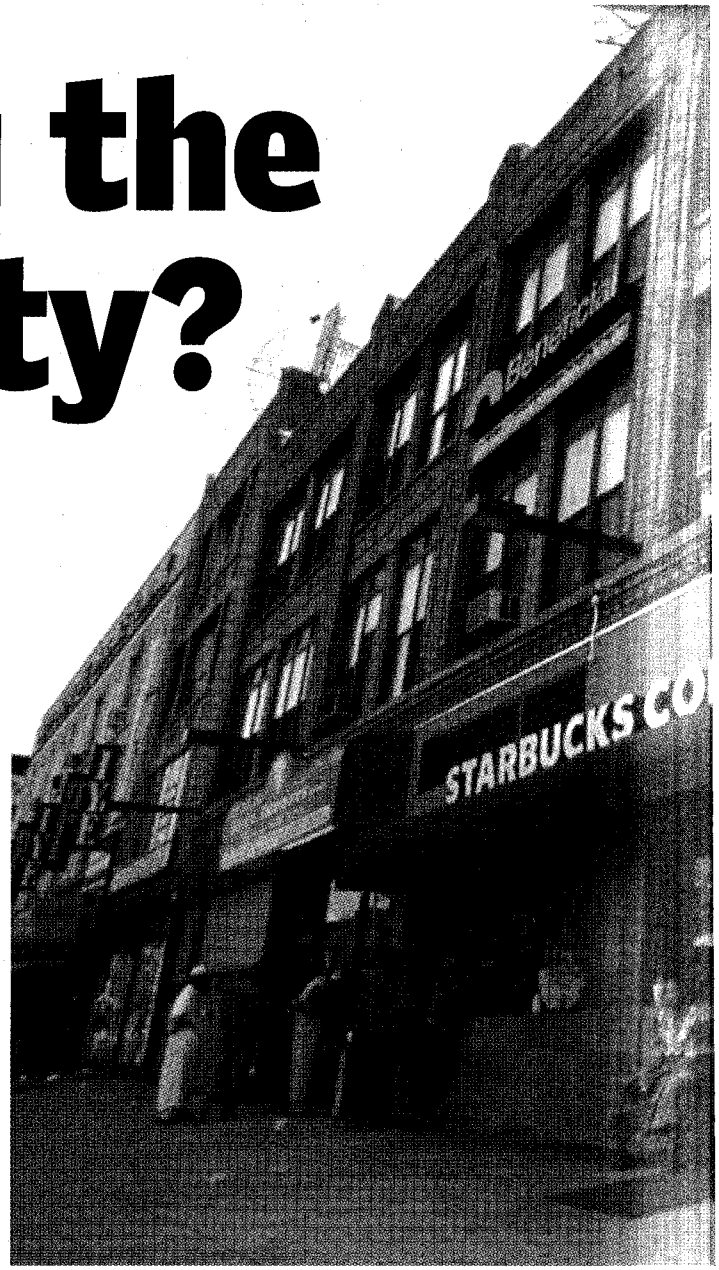
Growing the Inner City?

Harlem's experience with the "third way" antipoverty approach.

By TAMAR JACOBY *and* FRED SIEGEL



Starbucks comes to 125th Street.

PRESIDENT CLINTON'S WELL-SCRIPTED "New Markets" tour didn't include a stop in Harlem, but it should have. Barnstorming across the country last month, posing in shirtsleeves on an Appalachian farm, in the Mississippi Delta, and in the Watts section of Los Angeles, Clinton hoped to sell the nation on a new, "third way" poverty program: a package of federal tax credits and loan guarantees intended to stimulate private investment in neglected neighborhoods. His proposals, which will soon go to Congress, reflect a new consensus, even on the left, that the answer to poverty is capitalism—not government handouts but private business. Corporations would tap into a forgotten pool of workers, while mainstream investors and indigenous entrepreneurs together would create a local economy that edged out ghetto culture. In theory, it's a great idea. But, before Congress rushes to approve the money, it should take a closer look at Harlem, where a 15-year experiment with a similar public-private model has produced mixed results.

The notion of harnessing market forces to eliminate poverty has hardly been limited to Harlem. Championed by Jack Kemp during the 1980s, the idea was reengineered by Democrats a decade later in the form of empowerment zones: legislation offering not just tax credits (Kemp's idea) but also sizable government grants and loans for businesses in poor areas. In New York, the concept dovetailed nicely with longtime local efforts pushed by Democrats and Republicans alike to get local government out of the antipoverty business and to use private financing to build public housing.

The good news is that, thanks to these programs, Harlem is now awash in cash. The New York empowerment zone has three times as much money as its counterparts in other cities: a total of $300 million in public funds that it hopes to leverage over ten years with $1.25 billion in private money. And, together with some spillover prosperity from midtown Manhattan, these efforts are beginning to change the landscape above 110th Street. Encouraged by government subsidies, private developers have rebuilt or restored tens of thousands of apartments, providing homes for a stabilizing population of working-class families. For the first time in memory, a handful of national retail outlets have opened in the area: Starbucks, Duane Reade, RiteAid, Pathmark, Blockbuster Video, and Sterling Optical. Two major shopping complexes with multiplex movie houses are in the works, and even Harlem leaders, traditionally mistrustful of capitalism, are acknowledging what the market can do to lift the neighborhood out of poverty. "I recognize that, in order for this community to change, somebody's going to have to make a buck,"

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ELI REED/MAGNUM

says popular city council member Phil Reed. "I don't have a problem with that."

Administrators trying to engineer a market takeoff hope the government will eventually be able to bow out of the process. As publicly subsidized investment turns a profit, it will spawn a second generation of spontaneous business growth. Banks will be more willing to make loans. Supermarkets, pharmacies, and family restaurants will not only create jobs but will also draw working-class families—and then the middle class—back to the neighborhood. And this, in turn, will attract still more commercial investment—eventually without the help of public-sector incentives.

But none of this has actually happened yet in Harlem. A virtual city within a city, the neighborhood has as many residents as Atlanta. Much of the area is still vacant or crumbling. And while the officials midwifing change talk disparagingly of programs that create a "welfare mentality," they stop short of promoting a genuinely market-based approach. For all of upper Manhattan's competitive advantages, they believe, mainstream business will not find its way to Harlem without government intervention. They may be right: some government stimulus and incentives still seem necessary to spur market activity in the area. But, as long as government is involved, it will bring inefficiency, bureaucracy, and politics. Government procedures will guide—and skew—investment decisions. Government agencies are unlikely to close themselves down when they're no longer needed. And, meanwhile, opportunities for patronage, corruption, and mistaken judgments abound—innumerable different ways to squander the investment intended to create wealth in poor neighborhoods. Though the new hybrid approach to poverty is a clear improvement over Great Society liberalism, it may also reenact many of the failings of that earlier era. That, certainly, has been Harlem's experience over the past few decades.

A mere three or four subway stops from midtown Manhattan, Harlem has long been an economic world apart. Racism and fear of crime prevented outsiders from investing; lack of access to capital weakened black entrepreneurship; and, even in the best of times, the neighborhood was a business backwater—short on retail and largely without industry. Then, during the '50s and '60s, politicians with a big new idea began to make things worse. A generation of black elected officials—Representative Adam Clayton Powell Jr. and local Democratic leader J. Raymond Jones ("the Harlem Fox"), among others—pinned Harlem's economic hopes not on investment but on federal antipoverty programs, which, instead of spurring growth, ended up mostly stifling it. Urban renewal projects took over large swatches of land and razed them, but, bogged down by political wrangling, they often failed to construct anything new. And, without other market activity to point the way, downtown investors ignored the neighborhood, even as racism ebbed. "Over time," explains veteran nonprofit investor Kathryn Wylde, "the government displaced the private sector and destroyed any semblance of a free-market economy."

The political stranglehold on the neighborhood was institutionalized in the early '70s with the creation of the now

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infamous Harlem Urban Development Corporation (HUDC). Meant to funnel government funding into the area, HUDC functioned instead as an all-but-prohibitive gatekeeper, spending more than $100 million over 20 years with almost nothing to show for it. Much of the money was squandered on patronage—consultants, payroll, administrative overhead, campaign phone banks, and four-times-a-week car washes for top personnel. But even more destructive, in the long run, was the way the group managed to block both public and private development above 110th Street.

Using their influence at HUDC and a range of other uptown institutions, a coterie of politicians known as the Gang of Five—Representative Charles Rangel, businessman and former Borough President Percy Sutton, and former Mayor David Dinkins were the best known—controlled not only all antipoverty funds coming into the neighborhood but also the government-owned land, which, at the time, accounted for roughly two-thirds of Harlem. "Anyone who wanted to do business in Harlem had to go through them," recalls Randy Daniels, New York Governor George Pataki's chief lieutenant in the area.

PART OF THE problem was old-fashioned cronyism. Part was political self-interest: by definition, HUDC's influence was greater on government projects, which strongly prejudiced it against private investment. But both were secondary to the coterie's economic nationalism: members wanted to attract development only if they could control it—only if it included black partners and did not displace poor, black residents. Over time this meant that virtually no business, private or public, was done in upper Manhattan. "If the [HUDC] gatekeepers weren't playing a meaningful role in the project, if it wasn't their people, if they weren't getting a piece of the action, then it was better that nothing happened at all," one New York businessperson recalls, "no matter how beneficial it might have been for the people of Harlem." Even when other public agencies tried to build in the neighborhood, HUDC called all the shots—who was hired, how the deal was financed, which developers were involved—and often derailed projects. "If you didn't want to use their people, you took your money elsewhere," a local official remembers.

It seems that everyone who knows the history of Harlem recalls at least one deal that was blocked or fatally delayed. One prime site at the corner of Lenox Avenue and 116th Street sat empty for 25 years. A proposed international trade center to be built on 125th Street ate up millions of dollars before the idea was abandoned. Meanwhile, Blockbuster Video waited more than two years to open a store, stymied by HUDC officials who insisted that the chain find a minority partner. Throughout the '70s, '80s, and '90s, successive mayors and governors looked the other way—even as members of the Gang of Five allowed Harlem's assets, such as the legendary Apollo Theater, to deteriorate almost beyond repair. (Percy Sutton is now contesting a suit, brought by the state, claiming that his company shorted the theater $1 million in revenue even as Rangel and other Apollo board members failed to pay for minimal upkeep.)

Pataki dismantled HUDC in 1995, and the revelations that have come out since have turned even local opinion against it. Old-style, militant nationalism is now a minority voice in the neighborhood. Though the ever shrill Reverend Al Sharpton criticizes his fellow minister, Reverend Calvin Butts, for allying with "downtown money" to build subsidized housing, and Harlem's leading newspaper, *The Amsterdam News*, complains that the new retail on 125th Street is a plot to gentrify the area, by and large the economic nationalism in Harlem takes a different, subtler form today. Still, it remains a major obstacle to development.

THE NEIGHBORHOOD'S NEW development model, so much like the one Clinton hopes to foster nationwide, is at once a radical break from the HUDC era and a continuation of it. Harlem's bumper crop of new subsidized housing is a case in point. None of these units could have been built without private-sector involvement: private money and private contractors. But the process also required a new cohort of middlemen—gatekeepers, in their way not unlike the Gang of Five, mediating between uptown and downtown and deciding how private investment would be spent in the ghetto. Desperate to dispose of thousands of dilapidated ghetto buildings acquired through tax foreclosures, over the past 15 years the city transferred thousands of plots to large nonprofit organizations—the New York City Housing Partnership, the Local Initiatives Support Corporation (LISC), and the Community Preservation Corporation—that pooled investments from downtown banks and businesses and then collaborated with a new generation of indigenous community development corporations, or CDCs, to build or restore 30,000 units in Harlem. The result—a transformation that has left its mark on virtually every block of the neighborhood—speaks for itself, and Harlem insiders unanimously say it couldn't have happened without the local development groups that mediate between the community and outside investors.

These CDCs are a strange species unnecessary in most other parts of the city. Many are church based. Some are led by prominent, semipolitical figures such as Reverend Butts, whose Abyssinian Development Corporation midwifed the $15 million Pathmark grocery store that opened in East Harlem this spring. In contrast to HUDC, most of these newer groups work to assuage neighborhood fears about the impact of new development. They also navigate local political obstacles and attract public subsidies as no private entrepreneur could. Perhaps most important, they ease investor concern about wading into the uncharted waters of upper Manhattan—and, so far, every sizable project in the neighborhood has involved a community group acting as codeveloper. The danger is that the nonprofits' social agendas may ultimately skew the development process. They help decide, for example, just how expensive any new housing should be and, by extension, who should live in it. Perhaps most damaging, the CDCs only reinforce the idea that, alone and unaided, downtown entrepreneurs cannot make money in Harlem—not exactly a message that will encourage investors.

Over the past two or three years, the focus of Harlem development has shifted from residential to commercial. On

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paper, the long underserved neighborhood looks like a retailer's dream. New housing has brought in a wave of new residents with more disposable income. In many retail categories there is no competition, and 60 to 70 percent of residents routinely travel out of the neighborhood to shop. But, as with the housing revolution, commercial development hasn't happened spontaneously: apart from a few drugstore and video rental chains willing to hazard small outlets in the area, national retailers are still wary of the ghetto.

TODAY, YET ANOTHER middleman, the congressionally mandated Upper Manhattan Empowerment Zone (UMEZ), is working to change that. Not unlike the local CDCs, the zone organization is at once the answer to Harlem's economic problems (it has declared the neighborhood open for business and lured several high-profile retailers) and a continuation of them (it adds still another layer of bureaucracy to mediate—and inevitably skew—investment).

Unlike many other empowerment zones, which vary widely from city to city, the one in upper Manhattan is genuinely committed to a market-oriented approach. Rather than create a web of social services that would perpetuate Harlem's dependence on the public sector, UMEZ seeks to spur a business boom fueled by both outside investment and indigenous entrepreneurship. Aiming to create 23,000 new jobs, the organization's first president, former investment banker and city official Deborah Wright, consulted McKinsey & Company to determine what kinds of businesses would do best in the neighborhood; she then set out to encourage them with seed loans and tax credits. (The zone's charter also permits it to fund some social services, but primarily those that enhance business skills and job readiness in the neighborhood.)

The problem is that the zone is a quasi-public organization, and it functions like a classic government bureaucracy. The former investment bankers on the staff don't just go out and look for deals; as in a city agency, they issue requests for proposals and then wade through a flood of paperwork. Unlike a bank, which can issue a loan in days or even hours, the zone sends its likely deals through a convoluted, two-tiered approval process, and most of the major community groups in Harlem, the governor, the mayor, and Rangel himself have absolute veto power. Approval can take from six months to a year—a wait that can easily kill a small business start-up. And even more damaging than the delay is the overtly political nature of the screening process.

One consequence of this politicization is that social services have fared much better than business start-ups. Another is what insiders bluntly describe as patronage, much of it directed toward the same groups that benefited during the HUDC era. "Everybody [on the UMEZ board] wants their boy or girl massaged financially," says one local entrepreneur. "Board members and friends of board members are always telling [Wright] to take care of Willie and Suzy, and nobody asks who can do the job the most cheaply or the best."

What's remarkable, given these handicaps, is just how successful the zone has been in transforming the economic climate of upper Manhattan. "They have changed the rules for doing business in Harlem," says downtown development lawyer Jesse Masyr. In marked contrast to HUDC, Wright has successfully signaled to major investors that Harlem is a safe and profitable place to do business, even as she has allayed the community's perennial suspicion of outsiders. Still, even the zone's greatest successes have come with costs—the inevitable costs of government involvement in the marketplace.

The biggest business success story in upper Manhattan is the Harlem USA shopping and entertainment complex scheduled to open at the end of this year on the prime spot where 125th Street meets Frederick Douglass Boulevard. In the early '90s, after nearly 20 years of fruitless prospecting, the CDC that owns the land teamed up with a downtown developer, Grid Properties, to attract investment. But, even then, Grid President Drew Greenwald recalls, "some of the things we met with were beyond belief. Unlike Scarsdale or midtown Manhattan, Harlem takes a lot of explaining in corporate America." The big break came in 1995, just as the empowerment zone was getting going, when the Disney Company decided to open a shop. Though the store is considerably smaller than most Disney outlets, the company's decision to sign a deal made the complex. Half a dozen other national retailers, including Old Navy and HMV, followed Disney, and before long the project was 75 percent leased—enough to convince Chase Manhattan to come through with an impressive loan. Still, even with Chase and Disney and a Magic Johnson movie theater in on the deal, it took an additional $11.2 million from the empowerment zone to complete the $65 million financing package.

THE RETURNS FROM the complex's first year or so will make or break investor confidence in Harlem. "It is going to prove the uptown market and prove it decisively," says Anne Habiby, director of research for the Boston-based Initiative for a Competitive Inner City. "It took some extra time and extra effort to put all the pieces of the deal together," concedes Chase Manhattan's Mark Willis. "But, if it works, the next one will be easier to put together—much easier." Others, even those who have a stake in the project, worry that expectations may have spun out of control. "The whole thing is a big maybe at this point," warns one uptown entrepreneur, "a lot of ifs." For one thing, though the neighborhood is a low-income enclave, much of the retail in Harlem USA doesn't fit a low-income profile. Misjudging the customer base is a mistake any retailer could make, but the involvement of the empowerment zone, with its non-market investment criteria, has made this kind of error much more likely. "There's too much social engineering," says another businessman from the neighborhood. "Harlem USA, the Starbucks down the street—these people have conceptualized a middle-class Harlem that doesn't exist yet."

Even more dangerous, the Harlem USA complex is already having an effect on the nearby real estate market, increasing demand and raising rents along 125th Street—and this jump may have raised the cost of doing business in the area above

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what any retailer can recoup in profit. "It's one thing for Disney and Chase," says a Harlem businessman. "They can take a loss on a small store. They're up here as much for political reasons, anyway—to establish themselves with black consumers. But regular retailers look at it differently, and many of them are already priced out of the market."

It's a pattern of distortion that local players say they see elsewhere in the neighborhood. Though most uptown investors agree that some kind of incentives are still necessary to spur development, they also warn that the wrong sort of inducement can prove disastrous. "All too often," says one insider, "the city provides a subsidy of $3 million, and the cost of the project goes up by $3 million." According to knowledgeable Harlem residents, this is exactly what happened with the Pathmark that opened recently on East 125th Street. One person close to that deal claims that the supermarket could have been built at a fraction of its cost—but the developers, flush with low-interest loans and government money, chose to pay extra for the builder who got the contract. Meanwhile, these insiders say, the public-sector incentives that sparked the housing explosion have jacked up construction costs higher than an unsubsidized market can bear, and, now that the subsidies are shrinking, both contractors and builders accustomed to inflated profits are reluctant to take on leaner work.

THE EMPOWERMENT ZONE'S second goal—to stimulate the growth of local business—has proved even more elusive than attracting outside investment. It is an article of faith among those promoting the new-markets approach that the large-scale projects in the 125th Street corridor will have extensive ripple effects, generating increased business for the small stores around them, and UMEZ has spared no effort in assisting neighborhood retailers who might benefit from these opportunities. One of its first actions was to set up a sister program called BRISC (Business Resource and Investment Service Center), which provides capital and technical assistance to local entrepreneurs. Also during its first year, UMEZ created half a dozen loan funds and business-tutoring initiatives to help still smaller fledgling operations: home-based enterprises, mom-and-pop storefronts, and the like. Several of the local CDCs provide similar counseling and technical assistance.

The problem for all these initiatives is finding neighborhood businesses worthy of help. "The zone would have liked nothing better than to give its first $10 million to local black entrepreneurs," says one downtown investor who has worked extensively in Harlem. "P.S.: There aren't any." The massive middle-class exodus from the area has caused a fateful erosion of entrepreneurial energy. And over two years, despite a strenuous search for clients, BRISC has helped no more than three dozen enterprises, all of them in business categories—small start-ups and neighborhood stores—that notoriously fail in record numbers. Concerned about creating dependency, officers at BRISC and other loan funds say they do all they can to maintain "a private-sector mentality," rigorously screening applicants and placing conditions on the aid they give. Still, like any bank with a risky exposure, the new breed of planners has a stake in the entrepreneurs they help, and they don't like to see clients fail—for both emotional and financial reasons. Taken together, what all this means is that, in aiding local businesses, even more than elsewhere, third-way economic engineers don't receive the signals the market sends them. If the entrepreneur is black or the loan fund has gone out on a limb to help him, it doesn't really matter if his business is taking root and creating wealth in the community. The loan fund will stick with the business regardless.

The new Sterling Optical store at the corner of 125th Street and Malcolm X Boulevard is evidence of how this impulse to nurture start-ups can both help and hurt. A franchise owned by a team of black investors, Sterling Optical is the first shop in Harlem to sell expensive, brand-name eyeglasses, and, despite its seemingly middle-class orientation, it has reportedly done well since it opened last September. The people who run the store and its customers seem particularly proud that it is black-owned and operated. Elegantly designed and well managed, located on a choice corner of central Harlem, it is another hopeful sign that the neighborhood may really be open for business.

BUT THE REALITY is more complicated. The original idea for the store came not from its owners but from Gary Hattem, an executive at Bankers Trust. Building on the model of the decade before—the housing success story—Hattem asked friends at several CDCs to suggest types of new retail that the neighborhood needed. Then, together, the banker and the CDCs scoured the community for local people who could run shops. The most original part of the idea was the franchise concept: "It's a unique opportunity," says Hattem, "to help people without the business background overcome their lack of experience." The new eyeglasses store is the first fruit of this initiative. Clifford Simmons at the Abyssinian Development Corporation (ADC) found the six local investors: a group of old college friends, now professionals. ADC made the match with Sterling Optical. Bankers Trust and LISC, the nonprofit loan fund, financed the deal at well below market rate. Each of the six entrepreneurs put down a small amount of money; ADC kicked in the rest and then walked the investors through every step of setting up the business: hiring, purchasing, marketing, day-to-day management, and more. "Everybody held each other's hand," recalls a proud Simmons.

In the short run, the outcome is exciting. But, in the long run, it's far from clear just what Bankers Trust and ADC have bought with their investment and their labor-intensive personal involvement. As long as ADC stands in the background, essentially running the store and guaranteeing its prospects, the franchise owners won't learn very much about the real risk and responsibility at the heart of launching a start-up. Encouraging as it seems for other Harlemites, in truth, the Sterling outlet is a Potemkin enterprise. The bank and the CDC behind it have succeeded in putting a black face on Harlem retail, and a few well-connected residents may make a little money as a result. But the program has done little to

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create a genuinely entrepreneurial mindset in the neighborhood. "They're not teaching people business habits or business attitudes," says a skeptical downtown investor with experience in Harlem. Instead, he complains, they're creating another generation of people who make a living off local authorities.

The past six months have been a difficult period for the Harlem empowerment zone. Bad blood between Pataki and New York City Mayor Rudy Giuliani made it all but impossible for the able and well-liked Wright to do her job. The mayor's on-again, off-again relationship with Butts didn't make things any easier, nor has continued legal wrangling between New York state and Rangel in the Apollo Theater lawsuit. In early spring, local papers got wind of a feud between Wright and the mayor's office, and she resigned in April, ostensibly for personal reasons. But then, last month, the cloud hanging over the agency seemed to dissipate, thanks to an unlikely truce between Giuliani and Rangel. The zone's board of directors met quietly and released $54 million for languishing projects approved in the past fiscal year, and, according to insiders, Wright's successor will soon be announced. Given the zone's symbolic importance in Harlem, this turnaround is probably a welcome development, but it will solve none of the fundamental problems slowing commercial takeoff in the area.

As far as anyone can see into the future, political circumstances in New York—both uptown and downtown—virtually guarantee the continued politicization of Harlem's economy. Part of the problem traces back to the city's stranglehold on much of the land. The Giuliani administration has made a determined effort to divest itself of these holdings, cutting its portfolio from 65 percent to roughly a third. But the process by which the Department of Housing Preservation and Development (HPD) returns the land to private ownership remains a nightmare for private developers: painfully slow, maddeningly bureaucratic, and—like everything in New York—politicized. "It can take two or three times as long to get to the construction stage," complains builder Drew Greenwald, "and that's if everything goes smoothly. It takes the city a couple of years just to pick a developer, and then, if the guy doesn't work out, the site goes back to the city. If they make more than one mistake—and they often do—it can take up to 10 years to turn over a site."

The city's arcane, multilayered system for public review of most construction doesn't help. Every development that requires a zoning change must be submitted to the local community board. That's a difficult gauntlet to run in any neighborhood, but it's especially arduous in Harlem, with its age-old suspicion of outside—i.e., white—investors. Politically sensitive city agencies often defer to the enclave's local leadership. "We go back to the community boards for approval even when we don't have to," explains an HPD official. And, for many projects, the community board is only the first step in the process. A big-box shopping complex planned for 119th Street by the East River is currently undergoing a seven-month-long public review that began with Community Board 11 and will go through the borough president's office, the city planning commission, the city council, and the mayor's office before any construction can begin.

Local officials in Harlem know full well the power they wield in this process, and even those who say they welcome outside investment seem to feel an obligation to put up some resistance. "The elected officials of this community are going to make sure that the people who have been here a long time are not going to be sold out," declares Councilman Phil Reed. "We negotiate with the developers. We try to be reasonable. But, if you come through here and think you're going to make a profit by ripping someone off, you'll have a gorilla up against you." Often, the local demands are no different than they would be in any neighborhood: for example, that the developer of a large shopping complex pay for new Astroturf in a nearby playground. But even Harlem's planners admit that, in some cases, the area's unwelcoming politics can be prohibitive for investors. "I've talked to entrepreneurs trying to do things [in Harlem], and I tell them to contact the empowerment zone," says Richard Parsons, president of Time Warner and chairman of the UMEZ board. "They say, 'God save me from the empowerment zone—you get bogged down in all that political foolishness.'"

Though agencies like the zone and the CDCs that embrace a third-way agenda are slowly opening the door to outside investors, they have done little to challenge the public's unrealistic assumption that the neighborhood can be revitalized and yet remain otherwise unchanged. If anything, because of their political roots, the new planners have a stake in encouraging that illusion. But as long as they do—and as long as they let it guide their investment decisions—the economic change they seek is sure to be sharply circumscribed.

It would be easy for members of Congress pondering Clinton's proposals to misread the lessons of Harlem. The costs associated with government efforts to jump-start market activity in poor neighborhoods are all too obvious in black New York, and, in a perfect world, it would be better to do without government intervention. But we don't live in a perfect world, and there are reasons why markets don't spring spontaneously from the soil in places like Harlem and the Mississippi Delta. As Kathryn Wylde says of upper Manhattan, "the economy of the local community just isn't strong enough or attractive enough yet to support market-rate investment without some incentives." In circumstances like these, public-private solutions are needed to grease the way for capitalism, luring developers with tax credits and low-interest loans even as they prepare a commercial infrastructure and incubate a local business culture. But, in the end, devotees of the public-private model have to recognize that their methods may undermine their aims. The challenge for both Clinton and Congress is to design programs that minimize bureaucracy and political interference, leaving the market as free as possible—not so much for ideological reasons but because in the long run, only genuinely market-based investment will take root and connect places like Harlem to the mainstream economy. ■

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Stanley Kauffmann on Films

Visiting the Great

She says that she got out her notebook and that he "began pacing about the room in swift strides, diagonally from the door to the stove and back. Every time he reached the stove he would invariably knock against it twice. On top of this he smoked one cigarette after another, throwing his unsmoked stubs frequently into the ashtray at the corner of his desk. After he had dictated for some time he asked me to read back what I had written down."

The date was October 4, 1866, the place St. Petersburg, the dictator was Dostoevsky, and this was his first meeting with Anna Snitkina, who became his secretary on that day, his wife four months later, and who wrote reminiscences of him that are among the most precious insights we have into the life of a giant in art.

Virtually begging for fusion, at least for apposition of some kind, were Anna's account of her first month with Dostoevsky and the very novel that he was dictating. That fusion has now occurred in **The Gambler** (Independent Artists), through a screenplay by Katharine Ogden and Charles Cohen and Nick Dear. Dostoevsky, under severe contractual obligations, had to deliver a new novel to his publisher in twenty-seven days. That novel, itself called *The Gambler*, derived from his passion for gambling, which had developed a few years before at Baden Baden, and from his alliance there with a young woman. The gambling of fortunes in the novel posed against the gambling of his whole publishing future by writing under great duress, the contrast of recreating erotic fever while he was being charmed by the quiet appeal of his secretary—these elements have long been there, waiting to be used. But unfortunately the three screenwriters who used them have done too little and too much.

The relationship between the real lives—the author and his assistant—and the fictional lives they are working on is not made sufficiently ironical or pathetic. The similarity and the contrast are not lucidly juxtaposed. On the other hand, the character of Dostoevsky is freighted with mad-genius cliches, transforming him into someone like John Barrymore in *Svengali*. The epileptic seizures are sadly true, but a lot of the role is written like a Dostoevsky parody.

Michael Gambon, an overwhelmingly resourceful actor, fights to put life into this stock figure, but the more he succeeds, the less like the real Dostoevsky is the role. Jodhi May, who was so dreamily strong in that overlooked gem *Sister My Sister*, gives Anna appealing gravity. Polly Walker, an intelligent actress, is almost shockingly beautiful as the two lady loves, fictional (in the novel being dictated) and real (in the author's past). John Wood, heavily wigged and bearded, pads around Baden Baden as a foolish, besotted general. Luise Rainer, the German actress whose brief Hollywood career in the 1930s brought her two successive Oscars and then oblivion, appears briefly in the fictional sequences as an antique tyrant.

The director, alas, is Karoly Makk—alas, because this Hungarian film-maker, now in his seventies, is certainly gifted but, insofar as I have sampled his long career, has only once been fortunate in his scripts. *Love* (1970) is a treasure; the other Makk films that I have seen haven't done much more than confirm Makk's talent. Like *The Gambler*. The picture was shot in various Hungarian locales—it's in English, I should note—and Makk knows how to get the most from them and from his people in them. (I should note, too, that the Film Forum in New York has once more launched U.S. possibilities for a film we should at least have the chance to see.) But *The Gambler* is only an idea for a film, not yet clarified and embodied.

A blessing. Jean Renoir's **Grand Illusion** (Rialto) has been restored, freshly printed, and freshly subtitled. I enter my old demurral about the title. It's a mistranslation: the French original, *La Grande Illusion*, means *The Great Illusion*, without the romantic melancholy of the English title. But for the huge favor of this restoration let us be grateful.

The camera negative, the original film that rolled through the camera when Renoir was shooting, had a wartime journey. The occupying Germans sent it from Paris to Berlin; the Soviets took it over along with their sector of Berlin; it went to Moscow; and it was brought back to France as part of a film exchange with the USSR. Only in the 1990s was the Renoir negative discovered amidst some other material. And now we have this print.

As far as I can judge—and I hope I live another year for every time I've seen this film—very little has been added that we hadn't seen before. But the print is fresh, clean, nicely graded in its range of blacks and grays. At least equally important are the new subtitles—by Lenny Borger, an American who lives in Paris. (Declaration: he's a friend and former student.) The former subtitles were inadequate, most notably in the dialogue of the POW who is a former vaudevillian and who speaks in puns and snatches of song. Borger comes as close as is imaginable to rendering his chatter in English. And all of the dialogue seems cleaner, more pointed. Difficulties—like an untranslatable exchange about the use of "vous" and "tu"—have been overcome.

I can't comment yet again on this magnificent work except to say that its account of French prisoners in German hands during World War I seems now even more soaringly elegiac. In the early 1970s I published an essay on the film, and I venture to quote the last paragraph:

> In his book about his father [the painter], Renoir says that when he and his brother were children, his parents often went to the theater, leaving them in the care of a neighbor. Nevertheless his parents would jump in a cab at intermission and rush home for a few minutes to make sure the children were all right. A child who has known a home like that must grow up to inevitable disappointments, but has some security against them. For the characters in *La Grande Illusion*, their figurative parents—the traditions and ideals of the past—will not be back at intermission; they will never be back. The film is a farewell to their memory and the acceptance of a world without them. ■

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Dover Beached

By DAVID BROMWICH

God's Funeral: The Decline of Faith in Western Civilization by A. N. Wilson

(Norton, 402 pp., $27.95)

I.

THOMAS HARDY WROTE "God's Funeral" around 1910, a grim and majestic poem as it marches down the page in seventeen quatrains, cast in one of those eccentric stanza-forms that Hardy invented for almost any occasion: four beats to the first line, five to the rest—a short drum-roll followed by the muffled longer roll that befits such a ceremony. The crowd of marchers is composed of those who acknowledge God's death. Many of the wise are among them, as Hardy leaves no doubt, "many nigh the best," but all are solemn and unrejoicing.

> Still, how to hear such loss I deemed
> The insistent question for each animate mind,
> And gazing, to my growing sight there seemed
> A pale yet positive gleam low down behind,
>
> Whereof, to lift the general night,
> A certain few who stood aloof had said,
> "See you upon the horizon that small light—
> Swelling somewhat?" Each mourner shook his head.

Almost a century earlier, Shelley had written a similar poem of resignation about the fate of Enlightenment, with Rousseau as the defeated hero. Shelley's was a fantastic vision of a stream of humanity in flight from a nameless dread: "Old age and youth, manhood and infancy,/Mixed in one mighty torrent did appear,/Some flying from the thing they feared and some/Seeking the object of another's fear." He called it, ironically, "The Triumph of Life," and like Hardy he made much of the ambiguity of the light. Was this the glare of a new day, or the false glimmer of hope at twilight?

The resemblance between the poems is eerie, and Hardy may have meant it to prompt a further question. Does "God's Funeral" suggest the triumph of human autonomy and the coming reign of unfettered reason, or rather the dismal end of an ending that had begun in the Romantic generations, the death of the most potent symbol ever devised for redemption of the human world? It is a great subject for a book. And to judge by his previous work, A.N. Wilson would have seemed ideally situated to write it: an able intellectual journalist and literary-religious biographer (Milton, Tolstoy, Belloc), with a specialist's range and familiarity among the Victorians.

Yet Wilson's intentions are a good deal blander than anything that his title and his subject may suggest. He seems to be by nature an appreciative critic, but the yuppie audience, whose interests he keeps relentlessly in mind, is known to dislike high talk from the past unless the treatment glows with a nimbus of possible scorn. Nothing must be valued at more than its value. The result is that the moral as well as the matter of the book is constantly in danger of being scuttled. We are encouraged to cherish the impressive forbears (Carlyle, Ruskin, George Eliot, Thomas Huxley, many others) for the honesty with which they wrestled their doubts into a semblance of meaning, a meaning they feared existence itself would lack in a world without God. At the same time, we are invited to share a laugh at their expense, and occasionally a smirk. Were not their postures overdramatic, their skeptical formulae a trifle glib, their anxiety part and parcel of the human predicament, which they mistook for a crisis uniquely their own?

Over stretches of writing it looks as if

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Wilson, a mild conservative and a believer, has hit on the trick of portraying the agnostics as reactionary stiffs. Clearly they were less relaxed than he. But Wilson is also a born schoolmaster, keen to have us respect the heroes of his story as worthy persons. The capricious alternation of tones makes this finally a nagging book. The narrator walks ahead, glib and immensely informed, pausing at intervals to point out and expound. He is, he discovers on his way, bored by most of the figures whom he has assembled, and he takes his revenge with a carefully modest stance of superiority.

The donnish mixture of smugness and deference is Wilson's own contribution; the superiority, he can think, is conferred by the advantage of coming later in history; but the overtone of twee cheeriness comes to affect one like a tic. Is he (one may ask almost anywhere) mocking the Victorians now and winking at me? Or is he decently backing off, recognizing that their earnestness, without his added in, is already more than enough? Just when you think you grasp it, the deferential manner melts into a smarmy sarcasm. Then it changes again, the casual aspersions lift away, and you are at an after-dinner speech by a cultural ambassador.

NO GOOD BOOK could be written in this style. But by his procedures, Wilson exemplifies the working method and incidental strategy of a whole genre, the historical potboiler-of-ideas, and as an aid to future executants it may help to rank the defects of *God's Funeral* under appropriate headings.

Attempted epigram. An ironic prose is a delicate weapon, apt to cut the author who takes his eye off the subject, the things he loves and hates, the contrast between what is and what should be. An ulterior motive of appeasing a certain kind of reader will prompt a telltale glance upward, with effects that are always damaging. "It is difficult to place Shaw altogether," begins a typical sally by Wilson (the sham-scrupulosity of "altogether" is a bad sign). "Naturally, in his lifetime he received the Nobel Prize and made himself very rich twice over, partly by writing perky, harmless plays, partly by marrying for money." From "naturally" down to "twice over" the debonair attack is nicely carried, but it wobbles at "perky," a word with about as much precision as "neat" or "sassy," and the second allusion to money tips the facetiousness into malice. The epigram sinks because Wilson cannot get himself free, not even for a moment, from the mental image of those part-time, easygoing, clubbable readers who would enjoy this presentation, readers who measure their suavity by contrast with wretched eminences whose stock has fallen, intellectual overachievers such as George Bernard Shaw.

Deep moral feelings (faked). A vast and absorbing topic, with implications that extend beyond Wilson's book. Conspicuous outrage in the face of calamities every human being cannot but deplore—I am against the Holocaust, I am against child abuse—now has its place among the harmless conformities in the discourse of public philosophy. Because its prototype is the person of serious views on the TV talk show who culls serious handclaps from the audience, it had somehow seemed a peculiarly American practice. Yet Wilson, who is English and lets you know it, goes in for these moral noises with an almost native facility, sanctioned by theologically on-the-boil issues such as the modern (it is always modern) crisis (it is always a crisis) of belief.

He says of the Shaw-Wells generation, for example, that having dethroned God "they found it impossible to leave the sanctuary empty. They put man in His place, which had the paradoxical effect, not of elevating human nature but of demeaning it to depths of cruelty, depravity and stupidity unparalleled in human history." Here the thread is lost at "depths"; then the rhetoric machine takes over, grinding on regardless of the absent control. But what a harvest it reaps, "cruelty, depravity *and stupidity*"—a climax worthy of Mayor Daley's comparison of himself to Jesus Christ: "They betrayed Him. They crucified Him. They even criticized Him."

SNOTTINESS. A master-trait, but associated with a more local quality, misplaced pedantry. Wilson especially despises, and therefore tries to out-pedant, Matthew Arnold. There is a long and partly entertaining tradition of this in England; its first practitioner may have been the contemporary who called him Mr. Kidglove Cocksure. Doubtless Arnold's attempt to separate the literature of the Bible from the dogma of religious institutions is vulnerable for its odd compound of naïveté and sophistication. It was a way of keeping the value of religion without the incredibilities of actual belief—a compromise as awkward as his effort to extract from the vagaries of Homeric translation an essence of classic simplicity. Yet it does not follow that either of these elements in the Arnoldian program for culture was contemptible. The very idea of general education, whether in literature or religious ethics, presumes the worth of a practice of reading and judging that is bound to resemble Arnold's at many points.

But Wilson wants to condemn Arnold as a half-hearted popularizer, and to unmask him as an incompetent sage. So he contrives to suggest, on dubious and improvised evidence, that Arnold, when he did his daily work as school inspector, all too often had his mind on higher things. Wilson nicknames him "Lofty Matt." But there is worse: the depressiveness of Arnold's prophecies is such that "you would never guess ... that while he was alive England was enjoying a cultural and socio-political heyday with (apart from the Crimean War) very little bloodshed or conflict."

REDUCTIVE SUMMARY. Yet one must on no account appear reductive. Better, if possible, to sound a confident yet tentative note—the philistine function gently cloaked in humilitarian forms—as in Wilson's strictures on Freud, muttered between a giggle and a purr: "But all this stuff—this sense that we men are naturally at war with our Dads—is no more than a hunch, surely?" From time to time, an abyss yawns wide beneath the podium with the BBC teleprompter, and one catches a sickening glimpse of the seminar room *in extremis*. The payoff comes again in the pages on Arnold. Wilson recalls the penultimate stanza of "Dover Beach," about the withdrawal of "the sea of faith" that once touched every shore:

> But now I only hear
> Its melancholy, long, withdrawing roar,
> Retreating to the breath
> Of the night-wind down the vast edges drear
> And naked shingles of the world.

"There is," hums the chair at the head, "much to ponder here." First, Sophocles could not have heard the same sound "on the Aegean long ago," as Arnold claims he did, because the Aegean is not a tidal ocean.

> But even if [Sophocles] had done so, why should this be considered a good image for the decline of religious faith? If Arnold had written a poem about his wife's bath-water running out while he awaited her arrival in the bedroom, this might better have provided the imagery he was after....Tides turn. The sea comes back in. Arnold appears not to have noticed this rather simple bidiurnal fact.

Pausing to congratulate the lifemanship of the rather humble-rather simple, one may save one's deepest appreciation for the neutral adjective in Latin plainsong, *bidiurnal*. On the basis of this sentence, any connoisseur would pronounce Wilson a master of some sort.

Meanwhile, to his question "Why should

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this be considered a good image for the decline of religious faith," an answer may be made. It is a good image because it captures without cliché a central emotion, a despair at the futility of natural process without end, a futility that is doubly cursed in a nature that is felt to promise nothing beyond itself. Whatever the Aegean may be like, it was honorable of Arnold to allow Sophocles into his train of thought. The knowledge that a similar occasion has brought similar feelings to others is one of the consolations of solitude.

ONE MIGHT CONTINUE the anatomy indefinitely. The fault lies not only in the tiresome posture of the canny and disabused appraisal of the great dead, where a life's work can be summed up in a paragraph, and the reservations of a complex mind aborted by a parenthesis. The larger fallacy is a lowering assumption common to journalistic and academic historians of culture, the assumption that the critic is ultimately answerable to the way we think now, and that in this service the critic's job is to protect readers from the unnerving thought that there are old truths that cannot be assimilated to the new.

Of all Victorian thinkers, T.H. Green, the great scholar of Locke and Hume and theorist of political obligation, may have come closest to touching the conscience of both secular and religious persons. Since he emphasized the duties of citizens toward society as a whole, and wrote of the present moment as infallibly linked to the past and future, he is commonly summarized as an "English Hegelian" by those who do not want to have to read him. He was, in fact, a communitarian so global that at the heart of his ethics lay an idea of self-sacrifice by each generation on behalf of those who come after. Now, Wilson wants to introduce Green to his readers in the genteelest possible way. He knows that Green was a pupil of the classicist Benjamin Jowett, and he has himself read and enjoyed some of Jowett, but evidently little of Green. So he describes the latter as "a less talented (in general) protégé"—a cunning parenthesis—and winds up with a familiar anecdote of Jowett receiving a bust of Hegel in the library at Balliol College. Jowett commented first on Hegel, "I think I have gained more from Hegel than from any other philosopher," and then on the bust, "Hegel looks quite a gentleman." So much for T.H. Green.

It is consistent with Wilson's narrative method that he should dwell on the physical unprepossessingness of George Eliot and G.H. Lewes; dismiss Samuel Butler as "the author of two or three semi-amusing books"; fold into the plot an aimless chapter on Swinburne, which seems drawn from another venue entirely and deals with sado-masochism more than with atheism; recycle for purely sensational reasons the story of Carlyle tearing up a flower-bed the morning after his marriage; pronounce "sad" the discovery that "Spencer's 'religion of science,' as Beatrice Webb called it, did not make him very happy"; and conclude with perfect equilibrium in an area of maximum controversy: "Darwinism succeeded, in brief, because it was true; or as true as any description of the evolution of species could be. However much the 'creationists' might scream about it, the truth could not be gainsaid." But this does not mean, Wilson is quick to append, "that Darwin had all the answers to all the questions. He did not know about DNA. We do."

II.

WHAT, THEN, REMAINS as the legacy of the earliest free thinkers modern enough to feel like our ancestors? Even from this botched survey, two interesting conclusions emerge. The first is that the heroes of the crisis of the nineteenth century took their duty of confronting first and last things with a gravity that has no parallel today. Since their intellectual disputations were earnest, public, and consequential, the comparison really favors them at every point. This message is belied by the manner of *God's Funeral*, but it seems to have been Wilson's reason for writing the book, and it is a truth unwelcome enough to bear repeating. If belief is almost always tested more painfully than the detached observer can know, it is likewise certain that steady unbelief requires its own conviction.

But there remains a puzzle in the timing of the Victorian debate, as Wilson rightly remarks. The arguments against the probability of Christian doctrine, or any other human conception of a miracle-making God, were complete already in the writings of Hume and Gibbon. Those philosophical historians were regarded as "infidels" in their day, and Wilson underrates the extent to which Hume, in particular, was frowned on in polite and academic company for having dared to say how much he did not credit. Yet it is striking that atheism in the eighteenth century, however politically incendiary it might have been, did not become a matter of self-doubt and personal agony. One hears little then about personal crises of belief. What made the subject suddenly critical for the Victorians?

Wilson concludes that Hume and Gibbon were "urbane, vigorous and, above all, funny. It required a generation devoid of humour, perhaps, to make them dangerous." But this is to ask a question too few. Melville, who was not devoid of humor, felt the force of the same cultural mood, and so did Mark Twain. Individual conscience was under the pressure of an inquest new in both kind and degree—to justify oneself to the world, to understand one's reason for being. And among the major causes of the pressure was the rise of the realist novel. It searched out readers alone and suggested to them the possibility and the difficulty of becoming the hero of one's own life.

FOR EVERY THOUGHTFUL Victorian, the writer who seemed to have diagnosed this predicament was Carlyle, and the book was *Sartor Resartus*—an allegory more than a novel, a peculiar cross between *The Pilgrim's Progress* and *Tristram Shandy*, whose title means "the tailor retailored" and whose substance implies that the moral truth of religious conviction is belief in belief itself. This autobiographical fable of a spiritual progress, from "The Everlasting No" to the "Centre of Indifference" to "The Everlasting Yea," encouraged readers from utterly separate beginnings to trace in the hero the lineaments of their own spiritual quest. At the end of the quest, surprisingly often, lay an assertion of secular faith such as George Eliot's dictum that God is inconceivable, immortality unbelievable, but duty "absolute and peremptory."

For the purposes of his book, Wilson treats Carlyle as a passing unpleasantness, but he knows his importance well enough: "It was his belief that somewhere in the dead husk of these creeds there was something called Faith which could be cherished, even in an age of unbelief." Carlyle recognized that belief is inseparable from the will-to-life of a community of believers, and that, from this point of view, the difference between worship and hero-worship is only the difference between a picturesque ancient mythology and a mythology sublime and young. What renders this idea repulsive in Carlyle is its association with the cult of the leader and the conquering race; but the political inferences are in no way essential to Carlyle's psychological understanding of belief.

One can find all the human truth of *Sartor Resartus* about the struggle for belief—without the redemptive doctrine of the leader—in William James's scattered writings on "the will to believe" and "the sentiment of rationality." Wilson says that he greatly admires James. He should have used his writings freely as a guide to the subject. For James accepted religion as an ineradicable part of human nature. The aggregate human testimony of religious experience seemed to him so impressive

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that it was not clear what it would mean to try to reject it. Just as belief in the necessity of a moral law makes for the reality of morals, so, James thought, belief in a supersensible field of relations could make for susceptibility to causes and effects outside nature. He argued therefore that our belief in God may contribute to his reality. The relevant passage comes near the end of *The Varieties of Religious Experience*:

> Common sense is less sweeping in its demands than philosophy or mysticism have been wont to be, and can suffer the notion of this world being partly saved and partly lost.... Partial and conditional salvation is in fact a most familiar notion when taken in the abstract, the only difficulty being to determine the details. Some men are even disinterested enough to be willing to be in the unsaved remnant as far as their persons go, if only they can be persuaded that their cause will prevail—all of us are willing, whenever our activity-excitement rises sufficiently high.

James's own memory of his brother Wilky, who served heroically in a Negro regiment, the Fifty-Fourth Massachusetts, may underlie the thought of self-sacrifice in the final sentence.

JAMES PUT THE metaphysical case still more strongly in "The Dilemma of Determinism," though disclaiming the thought, for the time being, as merely the most persuasive argument he could imagine for a believer of a different sort, a Manichean: "Not the absence of vice, but vice there, and virtue holding her by the throat, seems the ideal human state. And there seems no reason to suppose it not a permanent state." Finally, he addressed the human consequences of such a view in a talk for the Harvard Young Men's Christian Association called "Is Life Worth Living?"

> Once more it is a case of *maybe*; and once more *maybes* are the essence of the situation. I confess that I do not see why the very existence of an invisible world may not in part depend on the personal response which any one of us may make to the religious appeal. God himself, in short, may draw vital strength and increase of very being from our fidelity. For my own part, I do not know what the sweat and blood and tragedy of this life mean, if they mean anything short of this. If this life be not a real fight, in which something is eternally gained for the universe by success, it is no better than a game of private theatricals from which one may withdraw at will. But it *feels* like a real fight—as if there were something really wild in the universe which we, with all our idealities and faithfulnesses, are needed to redeem; and first of all to redeem our own hearts from atheisms and fears. For such a half-wild, half-saved universe our nature is adapted.

It may be said against James's appeal that he recruits God mainly for instrumental purposes, to open and to invigorate a new field of action for human "idealities and faithfulnesses." Yet his argument is circular in a way that forestalls this objection. For James, it is the very idealisms and exertions of faith that enhance and partly constitute God. Again, it may be objected that there is something unsatisfactory in the notion that we make God by believing, just as there is something unsatisfactory in the pragmatic notion that we make truth by adding to the world a desired result that did not exist before. But James's argument relies more deeply on a connection that everyone has felt between the motives for disinterested action and the motives for unprovable belief. Why does it seem actually self-contradictory to suppose a God all of whose believers are weak and contemptible? If God is defined merely by omniscience and omnipotence, it is hard to see why this should be so. The answer, and it is a human answer, returns us to the Carlylean or Jamesian sense of the active and renovating power of belief as such.

MANY DRAMATIC THINGS were said about the death of God at the end of the nineteenth century. Nietzsche, the best and the worst of the dramatizers, wrote some sentences in *Daybreak* unusual in the quietness of their penetration. He suggests that Christianity drew its largest appeal by serving as a "brake" against the giddy realization that worldly suffering is meaningless. It did so by offering pride in the connection of human suffering with another world and a higher truth. "What force," Nietzsche asks, "will have to be employed if this brake is to be removed? More pride? A new pride?"

So long as these questions remain ours also, it seems wrong to scorn any of those who struggled to get free of the old pride. Even a publicist and educator such as Huxley, who said he would gladly die in defense of *The Origin of Species*, imagining himself a martyr for science in a persecution that never quite occurred, does not deserve the dismissal that is apt to greet his gesture now. Huxley was another reader of Carlyle: he had to show himself that he had got beyond the Centre of Indifference. How many of us could truly claim to feel no need like his? Kierkegaard said it is easier to stand on one leg and prove God's existence than to fall to your knees and pray to Him, but here criticism should be wary. If the test be simply of fortitude, once on your knees it is as difficult not to pray as it is to pray.

EXCEPT FOR FANATICAL bigots and the mob of the superstitious, who have been the majority at any time these past five thousand years, positions on faith may be divided into roughly the following types. Tolerant believers, who keep up their practice as a matter of both reflection and habit, but grant a reality to persons outside the fold. Customary believers, whose practice is pure habit, and for whom a community of the like-minded is an almost bodily necessity, which sets distinct limits to reflection. Fading believers, gravitating toward eclecticism, Unitarianism, or some version of "the perennial faith." This still leaves atheists and agnostics.

A hundred years ago Shaw remarked that an atheist was nothing but an agnostic who had the guts to say what he meant. Yet it does seem an observable difference that thoroughgoing atheists tend to be believers in science. They trust that science, which explains non-physical things in physical terms, will eventually find the answer to every other human question. (If science has no answer, then it is not a question that we have a right to ask.) Let us save the term "agnostic" then for persons who extend to science itself the same skepticism they show toward religion. The melancholy of the great Victorians (not Huxley, but Hardy; not Spencer, but Eliot) may be attributed to the fact that so many of them were agnostics in this sense. They understood the progress that science brought, but refused to make science the name of their final hope.

The duller Victorians of advanced views supposed that our desires themselves ought to change, and could in fact be programmed to change, in step with mutations achieved by the human control of society and nature. This hope is now in the process of being inherited by the millions of American gnostics whose God is information. But desires—including the choice of moral ends—are not so tractable. Genetics, or artificial intelligence, or an apocalyptic God cannot, with a separate will, remove the charge of human ends from human keeping, and there may be moral imperatives that survive every transformation in our ideas of what is physically possible. That is what George Eliot meant by her statement about the priority of duty.

Besides, the deeper conflict today may not be between those who adhere to a reli-

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gious doctrine and those who do not, but between those who believe some moral goods are not negotiable and those who wonder what that could mean. The latter are no longer known by the costume and slogans of nihilism. They are simply responders—to consensus, to demand, and to temptation, all now largely framed in terms of "consumption." If the hard gnostics of late antiquity were driven by a hatred of created life and a craving for what they knew by spotless intuition, the soft gnostics of late modernity are moved by a resentment of lived experience and distrust of every non-malleable reality. Reading of the nineteenth-century battles over religious truth, and recalling them in the light of the growing contemporary faith in endless adaptation, it is impossible not to wish the new orthodoxy ill, not to want to say again believingly and disobediently, *Non credo.* ■

Reason's Secrets

By DAVID ROSAND

The Renewal of Pagan Antiquity: Contributions to the Cultural History of the European Renaissance by Aby Warburg translated by David Britt

(Getty Research Institute, 859 pp., $75)

ALTHOUGH HIS NAME has acquired legendary status in the annals of the modern historiography of art, Aby Warburg's significance is generally acknowledged indirectly, not through his own work but at a distance, through the achievements of his intellectual heirs (Erwin Panofsky, most famously), and through the institute that bears his name. Yet Warburg's grand project reached well beyond the history of art, and it was certainly larger of vision than the kind of iconographic research that has come to be (mis)identified with him—research based on the simple equations of a reductive text-image algebra. Warburg's ultimate goal was nothing less than a "historical psychology of human expression." His scholarship must be considered among those ambitious efforts at understanding the operation and the development of social and psychic life that so prominently mark the intellectual history of the late nineteenth and early twentieth centuries.

Within the realm of art history, Warburg was impatient with the formalism that characterized the dominant analytical systems, whether the "scientific" connoisseurship pioneered by Giovanni Morelli and practiced most conspicuously by Bernard Berenson, or the grander schemes of stylistic analysis developed by Alois Riegl and Heinrich Wölfflin. He set out determined "to take a stand against the prevailing aestheticism of attitudes to the Renaissance." Inspired by Jacob Burckhardt, whose *Civilization of the Renaissance in Italy* (1860) established the fuller modern understanding of that historical phenomenon, and by his own university studies in the history of religion and psychology, Warburg insisted that the human meaning of art could be understood only within the larger contexts and conditions of its production and its function, not in a materialist sense but in its richest and most complex social and psychological resonance. He was especially drawn to the primitive expression of the irrational in magic and religion. Individual passion and communal ritual inspired the scholar and the man, who struggled with the demonic all his life.

By today's students of art history, Warburg's name is less likely to be associated with his own writings than with the remarkable library that he created in Hamburg, which, following its evacuation to England in 1933 for obvious reasons, was to continue as a major research institute for cultural history, affiliated with the University of London from 1944. One reason for such oblique knowledge of a great scholar's work is undoubtedly his language: Warburg's thickly nuanced German prose, with its nested subordinate clauses of modification and self-commentary, was not exactly clement toward American graduate students just out of their language exams.

His published work was collected in two volumes in 1932 under the title *Die Erneuerung der heidnischen Antike*: the revival, or the renewal, of pagan antiquity. An Italian translation of the most important of these writings appeared in 1966. Now, as part of the publication program of the Getty Research Institute, Warburg's studies are finally available in English, in an excellent translation by David Britt that manages to retain the suppleness and the detailed intricacy of the original, the enthusiasm of its scholarship as well as its irony and occasional humor. Warburg's achievement—which has for some time been the object of serious critical study (especially since the publication in 1970 of E.H. Gombrich's *Aby Warburg: An Intellectual Biography*)—should now reclaim its position as central to our understanding of the aims and the methods of art history. His voice can be heard anew with the clarity, the purpose, and the authority of its original expression. It is a voice of passionate commitment to the study of humanity.

ABY WARBURG WAS born in 1866 into a prominent Jewish banking family in Hamburg, the eldest of seven children. Perhaps the most famous anecdote in his biography—it is directly related to the permanent monument to his achievement, the library—was recalled by his brother Max in his memorial address at Warburg's funeral in 1929:

> When he was thirteen, Aby made me an offer of his birthright. He, as the eldest, was destined to enter the firm. I was then only twelve, rather too immature to reflect, and so I agreed to purchase his birthright from him. It was not a pottage of lentils, however, which he demanded, but a promise that I would always buy him all the books he wanted. After a very brief pause for reflection, I consented. I told myself that when I was in the business I could, after all, always find the money to pay for the works of Schiller, Goethe, Lessing and perhaps also Klopstock, and so, unsuspecting, I gave him what I must now admit was a very large blank cheque. The love of reading, of books ... was his early passion.

This young Esau's hunger for books was to take him far afield, as he followed paths leading well beyond the traditional bounds of conventional art history.

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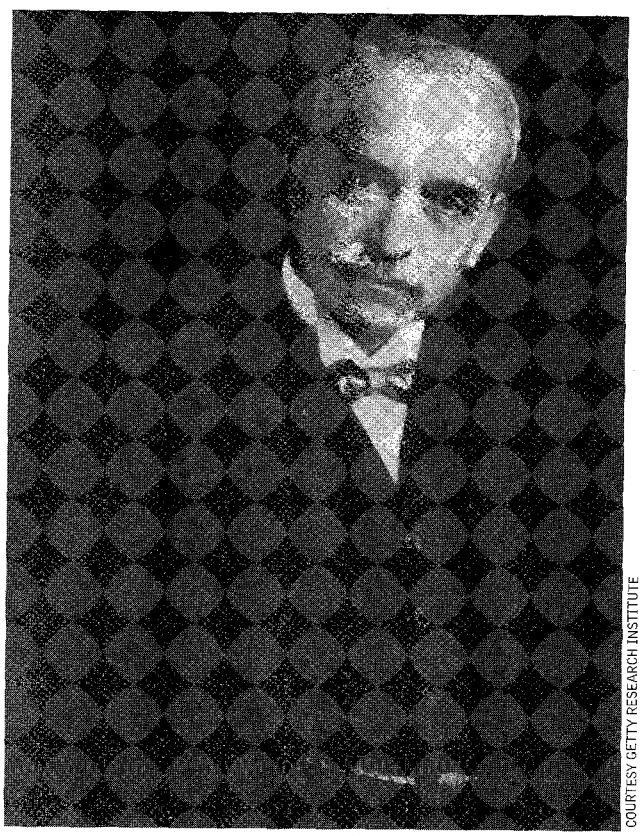
Opened by his own curiosity, those paths led him to acquire books on the general problems of human expression and on the nature of symbols, books in anthropology, astrology, religion, philosophy, the history of science, language, and literature, the social forms of human life, history, law, and folklore.

The cumulative effort of Warburg's own interests created the unique library that was to serve as the personal arena of the scholar. He regarded his library not as a passive repository but as a responsive resource, one capable of engaging in creative dialogue with its user, raising new questions and opening new prospects of inquiry. The arrangement and rearrangement of those many thousand volumes on their shelves was for him nothing less than the probing of knowledge, the testing of hypotheses. Browsing was welcomed as an activity of genuine discovery. New information came from the volume next to the one being sought—what he called the "law of the good neighbor." Warburg generously opened his library to fellow searchers in the field, and it eventually became a quasi-public institution. (Appended to Gombrich's intellectual biography is a moving memoir on the history of the library by Fritz Saxl, Warburg's longtime associate, who saw to its transfer from Nazi Germany.)

The papers in *The Renewal of Pagan Antiquity* are arranged in sections "under titles that indicate their thematic coherence, demarcate the various areas of interest, and assign a place and function to each individual essay," as Gertrud Bing, Warburg's assistant and the editor of the volume, explained in her foreword to the original German edition in 1932. Within each section the papers appear in generally chronological sequence. Collectively, the section titles convey some sense of the thematic evolution of Warburg's work: "Antiquity in Florentine Bourgeois Culture," "Exchanges between Florentine and Flemish Culture," "Antiquity and Modern Life in Renaissance Pageantry," "Italian Antiquity in Germany," and "The Olympian Gods as Astral Daemons." A final section of "Occasional Writings on Public Cultural Issues" attests to Warburg's personal engagement with issues, events, and individuals of his time—from an article on "American Chapbooks" (1897) to observations on the opening of the Kunsthistorisches Institut in Florence (1927) and on the efforts to establish a university in his native Hamburg, where he recognized the tension in the mission of the modern university: "The central question is this: is it possible to devise a type of higher education based on a new kind of balance between teaching and research, between the teacher's right to examine and the lay person's right to inquire?"

The volume opens with Warburg's pioneering dissertation of 1893, "Sandro Botticelli's *Birth of Venus* and *Spring*: An Examination of Concepts of Antiquity in the Italian Early Renaissance." His prefatory note succinctly announces its aim: "to adduce . . . the analogous ideas that appear in contemporary art theory and poetic literature, and thus to exemplify what it was about antiquity that 'interested' the artists of the Quattrocento." Warburg's intention is "to trace, step by step, how the artists and their advisers recognized 'the antique' as a model that demanded an intensification of outward movement, and how they turned to antique sources whenever accessory forms—those of garments and of hair—were to be represented in motion." Finally, he suggests that "this evidence has its value for psychological aesthetics, in that it enables us to observe, within a milieu of working artists, an emerging sense of the aesthetic act of 'empathy' as a determinant of style."



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Aby Warburg, 1925

From the outset, Warburg's notion of antiquity differed fundamentally from the "noble simplicity" and the "quiet grandeur" celebrated by Winckelmann and central to the heritage of eighteenth-century neoclassicism. In the art of ancient Greece, and its Roman translation, Warburg sensed a greater energy and a deeper conflict. He recognized the mythic sources that spoke to primitive and indecorous psychological urges and needs. Within the classical tradition, and especially in the renewal of its expressive forms in the Renaissance, he sensed the polar tensions that gave life to art.

In 1872, in *The Birth of Tragedy*, Nietzsche had raised the specter of the Dionysian irrational to challenge the Apollonian calm of inherited notions of the classical. Warburg extended the challenge into the continuing afterlife of antiquity. What attracted him was not the stilled nobility of white marble, but the polychromed pathos, the throbbing currents of life: "the loftier antique style of life in motion." The ecstatic maenad, her head thrown back in all her pagan frenzy, was Warburg's inspiration.

Seeking to rescue Botticelli from the fin-de-siècle aestheticism of his "sentimental" admirers, Warburg situated the painter's mythological tableaux within the life of late-fifteenth-century Florence, in its poetry and its pageantry, especially that of Angelo Poliziano; and he stressed the significance of Medici patronage, the circle around Lorenzo the Magnificent, which made such art possible. Warburg set Botticelli's paintings back into their milieu—but this was only a part of his goal and his achievement. In his studies of Florentine art of the early Renaissance, he discovered those fundamental motifs that were to inspire him throughout his subsequent career: the agitated movement of hair and garments.

Spiraling hair and wind-blown draperies had been enthusiastically described and recommended by Leon Battista Alberti in 1435, in the first humanist treatise on art. But Warburg was not merely responding to his art-historical reading; his discovery of such motifs as affective signs, of agitation in a fully psychological sense, was clearly his own. The degree to which these motifs became central to his thought confirms their intensely personal significance for him. Warburg observed that the poet Poliziano "seems to have had a particular fondness for women's hair," and the scholar himself seems to have shared that fondness. Such "accessories in motion" were outward linear signs of

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inner expressive states. They proved to be both a means and an end in the transmission of meaning from classical antiquity to the Renaissance.

Draperies pressed against and flowing beyond a graceful female body by an otherwise unseen breeze, a lock of hair flying out "unmotivated by any bodily movement": Warburg historicized his own infatuation with such motifs by sharing it with the poets of the Renaissance. The imagined figure of the nymph became for him the very embodiment of such grace, whether it was naturally choreographed in the *all'antica* realm of Botticelli's mythologies or fashionably and less appropriately intruding an elegant classicizing note into the prosaic bourgeois world of Ghirlandaio. The facile adoption of such classical motifs by many Florentine artists could lead to a kind of devaluation of their inherent meaning, a sacrifice of expressive power to pictorial fashion.

"Italian artists had seized on the rediscovered antique treasury of forms just as much for its emotive force of gesture as for any tranquil, classic ideal," Warburg wrote, further elaborating his thesis in "Dürer and Italian Antiquity" in 1905. In the pictorial motif of the death of Orpheus, and in its transmission from ancient art through an Italian engraving to the German master, he discerned "the emotive gestural language defined by Greece for this same tragic scene." What the figural motifs of the ancient world offered artists of the Renaissance were "extremes of gestural and physiognomic expression stylized in tragic sublimity." The formal constructs epitomizing those extremes Warburg identified as *Pathosformeln*, or "pathos formulas." He recognized in them the essential means of "the circulation and exchange of expressive forms in art."

WARBURG'S RESEARCH generally began with questions raised by a particular object, image, or text, and it inevitably expanded beyond its particular occasion to embrace further dimensions of cultural history. "God dwells in the details": he often quoted this aphorism to his students, and his research led him deep into the rich mines of the Florentine archives. There, in direct contact with the documents of the past, the scion of a banking family engaged a world not entirely alien to him: "Florence, the birthplace of modern, confident, urban, mercantile civilization, has not only preserved the images of its dead in unique abundance and with striking vitality: in the hundreds of archival documents that have been read—and in the thousands that have not—the voices of the dead live on."

In 1902, he published "The Art of Portraiture and the Florentine Bourgeoisie. Domenico Ghirlandaio in Santa Trinita: The Portraits of Lorenzo de' Medici and His Household," which he considered a supplement to Burckhardt's essay on "The Portrait." Archival research allowed Warburg to attempt a fuller and more dynamic notion of portraiture, not only of the individual but also of the group. Identifying many of the personages painted into the narratives decorating the memorial chapel of Francesco Sassetti, a banking associate of Lorenzo de' Medici, he reconstructed the vibrant community that enabled the art of the Florentine Renaissance. Through such personalized iconography, Warburg situated Ghirlandaio's frescoes ever more securely in their immediate milieu, and he also expanded the critical vision of portraiture itself: "In a living art of portraiture, the motive forces of evolution do not reside solely in the artist; for there is an intimate contact between the portrayer and the portrayed."

Warburg was moved by the humanity of these citizens of Medicean Florence, in whom he found "united the wholly dissimilar characters of the idealist—whether medievally Christian, or romantically chivalrous, or classically Neoplatonist—and the worldly, practical, pagan Etruscan merchant." In their art he recognized the "compromise between Church and World, between classical antiquity and Christian present" that informed it with "all the concentrated enthusiasm of a bold, fresh experiment." In dialogue with their portraits, he brought their past to life. "They are quite willing to talk," he declared. "Only resort to a variety of subsidiary evidence—documents, medals, paintings, and sculptures—and they will begin to tell us all manner of intimate, beguiling, and curious things about the family life of Lorenzo il Magnifico" and his entourage.

In the portraits on the wall of Sassetti's chapel, Warburg recognized the Florentine's "indomitable will to live," a theme that he explored further in "Francesco Sassetti's Last Injunctions to His Sons" in 1907. A part of the attraction for the historian was the liminality of the Florentine's moment, "caught up as he was in the transition between the Middle Ages and modern times." It was Sassetti's invocation of the figure of Fortune that seemed especially revealing to Warburg, the invocation in a document marked by Christian piety and charity of a pagan deity "revived by the Renaissance as the stylistic embodiment of worldly energy."

The figure of Fortune haunts the pages of Renaissance writing, a constant reminder of the inconstancy and the

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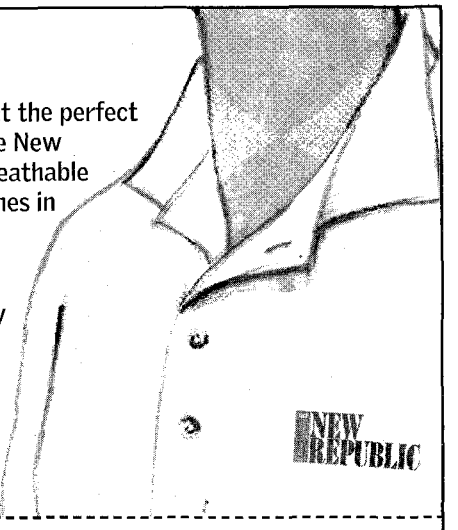

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capriciousness of life, commercial and political as well as personal. Figured in the personal *impresa* of another Florentine, Giovanni Rucellai, Fortune appears as a naked woman acting as the mast of a ship, "gripping the yard in her left hand and the lower end of a swelling sail in her right." In Italian usage, Warburg noted, *fortuna* signifies not only "chance" and "wealth" but also "storm wind." And her sail, of course, belonged to that category of "fluttering accessory forms" that so inspired Warburg's art-historical imagination.

Florentine merchants opened their overseas business contracts with the words "*Col nome di Dio e di Buonaventura*," or "In the name of God and of Good Fortune." Again, in the tension between the Christian and the pagan in such an apparently casual convention Warburg discovered a source of the imaginative energy of the Renaissance: the wind goddess came to function "as an iconic formula of reconciliation between the 'medieval' trust in God and the Renaissance trust in self."

CENTRAL TO WARBURG'S discussion is the concept of energy, which informs the lives and the achievements of his subjects as well as the symbols of their existence. Sassetti chose the figure of a centaur wielding a sling to represent his own self-image. Parsing this figure, Warburg recognized in its components an inflection of the family's traditional *impresa* of David, which accounts for the French motto added to the centaur: "*A mon pouvoir*" ("In my power"). This was balanced by a second motto, in Latin: "*Mitia fata mihi*," or "*Sors placida mihi*" ("Fate merciful to me"). "Conscious that he was oscillating between two extremes, and wanting a new ethical equilibrium," Warburg concludes, the Florentine merchant "deliberately chose to express himself through two antithetical devices: setting the passive fervor of the Latin prayer against the French motto, its zest for action underlined by the high spirits of the centaur."

No summary can convey the expanding momentum of Warburg's historical vision, the passion at stake in the material and in the argument itself. Warburg perceived a powerful dialectic in every aspect of the culture under study, the vital confrontation of apparent incompatibilities: Christian and pagan, the death of St. Francis and the death of Meleager, Northern courtly fashion (*alla franzese*) and Italian classicizing style (*all'antica*). Responding sympathetically to the individual's effort to achieve some sort of synthesis of such oppositions, he truly admired that "cultivated Renaissance man ... who, in an age of transformed self-awareness, strove for a positive balance of his own."

THE CONCLUDING PARAGRAPH of Warburg's study of Sassetti's "Last Injunctions to His Sons" offers a revealing statement of the scholar's own credo. It eloquently testifies to his aims and values, to his empathy with his subject:

> Historically analyzed, such attempts to achieve balance serve to define the powerful forces of resistance to the organic evolution of style. Such forces have tended to escape notice, because the modern aesthete looks to Renaissance culture either for primitive naïveté or the heroic pose of an accomplished revolution. The possibility that Francesco Sassetti's injunctions to his sons might reveal not only the impressive individual behind them but also the natural interpreter of the iconography of his funerary chapel—so much of a piece with the man itself—seems to me to justify the admittedly problematic attempt to take a synoptic view, embracing both an attitude to life and an artistic style. The general psychological notions introduced here may do no more than stimulate the imagination; but at least I hope to have shown that it is possible, from the inexhaustible human riches of the Florentine archive, to reconstruct the background of the age clearly enough to supply a historical corrective to the narrowly aesthetic view so often taken of it.

Warburg insisted that the proper study of art as cultural history must look beyond monumental painting and sculpture to include tapestries, prints, medals, and the so-called minor and decorative arts—and he himself extended his research to the iconography of postage stamps, advertising posters, and newspaper photographs. His archival work had led him to the visual and textual documents of another Florentine theatrical extravaganza, the wedding celebrations of Grand Duke Ferdinand I and Christina of Lorraine in 1589. Warburg published the detailed accounts of these spectacular events in "The Theatrical Costumes for the Intermedi of 1589: Bernardo Buontalenti's Designs and the Ledger of Emilio de' Cavalieri" (1895). As in his dissertation on Botticelli's mythological paintings, he was concerned with "life in motion," that is, with the animation of idea, the visual and corporeal realization of poetic text.

The historian's task, he wrote, was to give voice back to the ephemeral bodies of mythological pageant, which "being an essentially mute and gestural art, naturally relies on accessories and adornments." As one of "those now extinct transitional forms between real life and dramatic art," the mythological pageant "afforded a unique opportunity for members of the public to see the revered figures of antiquity standing before them in flesh and blood." The effort to bring the pagan gods back to life was a defining force in Renaissance culture. What especially interested Warburg were the motivations behind that effort and the mechanics of its realization.

AN IMPORTANT PART of the answer to Warburg's inquiry lay in the stars. Astrology proved to be the numinous conduit of the ancient deities to early modern Europe, beginning with the seven planets: "those Greek gods who, under Oriental influence, assumed the rulership of the heavenly bodies named after them." In what he considered only a "provisional" study of "Italian Art and International Astrology in the Palazzo Schifanoia, Ferrara" (1912), Warburg opened an entirely new perspective on a major calendrical fresco cycle whose "complicated and fantastic symbolism" had resisted interpretation. By "extending the purview of the investigation to the East," he revealed those painted figures to be "survivals of astral images of the Greek pantheon ... symbols for the fixed stars—although over the centuries, in their wanderings through Asia Minor, Egypt, Mesopotamia, Arabia, and Spain, they have lost their Grecian clarity of outline."

In such a sentence we may appreciate the reach of Warburg's vision, the range of his research as it traced the wandering itinerary of astrological systems and the accumulating notions of magical influence ascribed to the stars. It was not a progress that Warburg applauded. What started as observation and description of the planets and the fixed stars became a tool for deducing the nature of celestial influence on human life. "By the Middle Ages, however, direct observation tended to give way to a primitive cult of star names." And he proceeded to warn that "ultimately, astrology is no more than a form of onomastic fetishism, projected onto the future." Even as he recognized the powerful role of astrology in the shaping of Renaissance imagery, Warburg deplored the "curious rebirth" of Hellenistic natural philosophy in the Middle Ages: "Spanish illuminated manuscripts, translated from the Arabic, resurrected those Greek authors who were to make the Hermetic, therapeutic, or oracular astrology of Alexandria into a shared and baneful European heritage."

One of the objectives of the Renaissance, in Warburg's view, was to rescue

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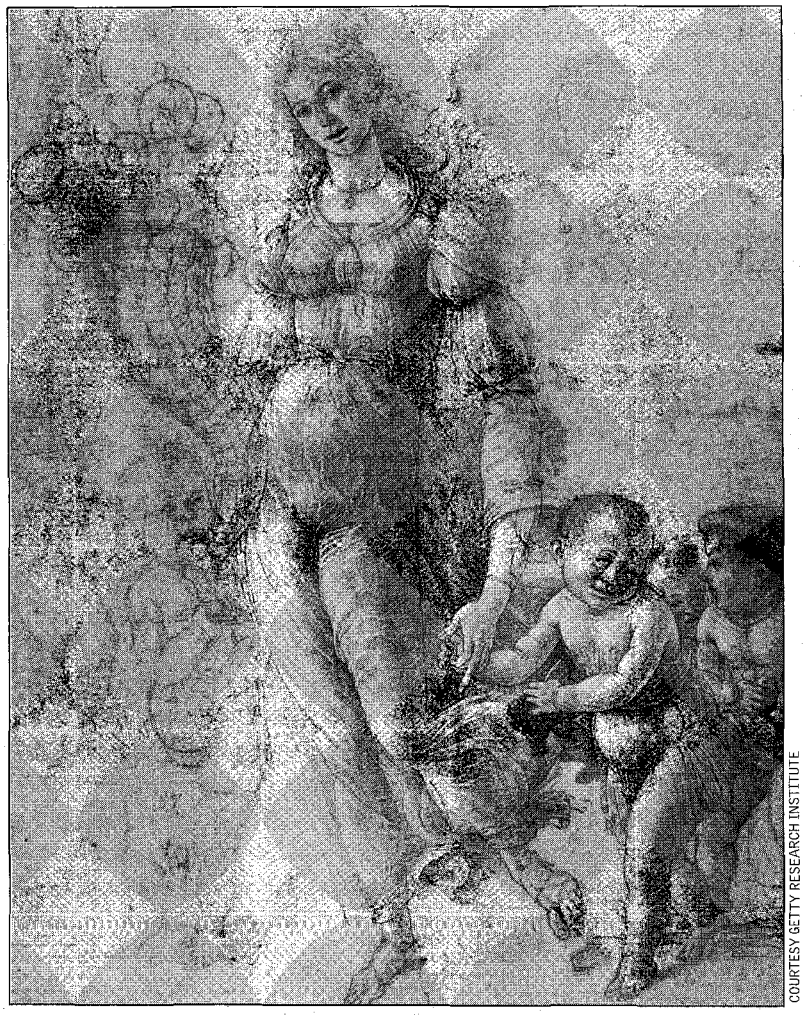
the "Olympian" aspect of antiquity from its "entrenched, traditional, 'daemonic' aspect," that is, to re-humanize the classical deities, returning to them their proper form. This, as Warburg observed in a notebook of 1928, was the achievement of artists such as Raphael, who "transformed these sinister demons into the serene gods of Olympus who dwell in higher spheres where there is no longer any room for superstitious practices." For Warburg, the triumph over superstition represented the progress of humanity. The student of the anthropology of religion felt called upon to do battle with the demons that animated primitive cultures—and that sometimes survived in more sophisticated cultures as well.

The last major study in *The Renewal of Pagan Antiquity*, "Pagan-Antique Prophecy in Words and Images in the Age of Luther," dates from 1920, and it is Warburg's most personally charged publication. With deep appreciation and admiration, he describes what he sees as Luther's own stand against the superstition of astrological and teratological divination, the reformer's rejection of the horoscopes prepared for him by friend and foe alike. Warburg considered this episode a revealing chapter preliminary to what he imagined rhetorically would be the standard work on "The Bondage of Superstitious Modern Man." Luther's stand represented an important gesture of liberation from that "fear of daemons, the most primitive causative force in religion."

Investigating the theory of planetary conjunctions that controlled astrological divination, Warburg chose as a "guiding star through this astral labyrinth" the figure of Saturn, most ancient of the Olympians, because "the fear and awe of Saturn stood at the very center of astrological belief." His investigation culminated in an extended meditation on Dürer's most famous engraving, *Melencolia I*, the dark image of a winged genius sunk in apparently deep depression and surrounded by a multitude of enigmatic objects and creatures.

The astrological foundation of this image had already been identified, by Karl Giehlow, in the countervailing influences of Saturn and Jupiter. Saturnine melancholy, literally embodied in the pose and the physiognomy of Dürer's heavily seated winged figure, was balanced by the magic square of Jupiter prominently set above her in the engraving. Warburg's thesis explored the deeper implications of that notion of balanced planetary influences and temperaments, and he recognized in Dürer's iconographic invention a moral and personal meaning:



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Botticelli, "Nymph of Achelous"

The truly creative act—that which gives Dürer's *Melencolia I* its consoling humanistic message of liberation from the fear of Saturn—can be understood only if we recognize that the artist has taken a magical and mythical logic and made it spiritual and intellectual. The malignant, child-devouring planetary god, whose cosmic contest with another planetary ruler seals the subject's [horoscopic] fate, is humanized and metamorphosed by Dürer into the image of the thinking, working human being.

The theme of Saturn and melancholy was a part of Warburg's legacy to his followers and intellectual heirs, Saxl and Panofsky—who, with Raymond Klibansky, published a monumental monograph on the theme. Panofsky in particular continued to consider its implications for the visual arts, in Michelangelo as well as in Dürer. Still, his reading of *Melencolia I* stands in rather somber contrast to Warburg's interpretation of the image. In affirming its personal meaning, as figuring what might be called the "Artist's Melancholy," Panofsky adduces from Dürer's own writing passages of deep frustration, of the impossibility of the artist ever knowing absolute beauty, of the limits of geometry and reason itself: "The lie is in our understanding, and darkness is so firmly entrenched in our mind that even our groping will fail." Panofsky's great monograph on Dürer was published in 1943; his artist seems almost to be speaking of the state of modern Germany.

Warburg's Dürer offered a different vision, a more positive one, "into the very heart of the process of renewal that we call the Renaissance." The artist stood along with the Protestant reformer as the leading German protagonist of what Warburg called "the tragic history of freedom of thought in modern Europe." Luther and Dürer "coincided to some extent in their resistance to the myth of the great conjunction. With them, we find ourselves embarked on the struggle for the mental and religious liberation of modern humanity—though as yet only at an early stage." Throughout his studies of the irrational and the demonic, Warburg held fast to reason. However deep the roots of primitive belief, the triumph of reason was essential to the progress of intellectual understanding and intellectual freedom.

"Pagan-Antique Prophecy in Words and Images in the Age of Luther" was the crowning publication of Warburg's career. He was unable to deliver the paper in person at the Berlin meeting of the Religionswissenschaftliche Vereinigung (Association for the History of Religion) in 1918, because, as he explained in a preface, in October of that year he "fell

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gravely ill." Mental illness was to keep him in convalescent homes until 1923. As Ernst Cassirer recalled in his memorial address in 1929, Warburg feared "that the demons, whose sway in the history of mankind he had tried to explore, had taken their revenge by seizing him."

In a remarkable effort at self-healing, Warburg proposed to his doctor that he deliver a lecture to his fellow-patients in the hospital at Kreuzlingen, as a demonstration of his own mental clarity. The subject of that lecture, which succeeded in its purpose, was the serpent rituals of the Pueblo Indians. In preparing it, Warburg drew upon his earlier studies in the anthropology of religion and on the direct experience of his American journey in 1895. Among the Indians of Arizona and New Mexico he had sought some reflection of the paganism that animated the primitive culture of ancient Greece.

In the lecture, Warburg addressed the mythopoetic mentality that gave primitive man the means to confront the harsh realities of the universe, such as drought and famine, the "phobic reflex of cause projection." Anthropomorphic and biomorphic imagining becomes an understanding of causes, a quest for enlightenment that depended, in Warburg's view, upon a certain detachment from the threatening phenomena, a distance opened by the imagination and allowing room for thought. But that distance, so essentially humanizing, was threatened by modern technology: "Mythopoetic and symbolic thought in their struggle to spiritualize man's relation with his environment have created space as a zone of contemplation or reasoning, that space which the instantaneous connection of electricity destroys unless a disciplined humanity restores the inhibitions of conscience."

Warburg returned to Hamburg in 1924. His library had been transformed by colleagues, with the support of his family, into a public institution and a home to a community of scholars whose work, in effect, was to extend and to codify his own. He himself continued to lecture, refining his ideas and his practices and expanding the range of his interests. The details in which God dwelled, always pictorial for Warburg, had provided the basis for his thought. From the conjunctions and the juxtapositions of those details, new dimensions of meaning were revealed and larger patterns of cultural construction and transmission—such as Manet's *Déjeuner sur l'herbe*, reaching back to Marcantonio Raimondi's engraving of Raphael's *Judgment of Paris*, which in turn was inspired by an antique sarcophagus.

The renewal of pagan antiquity in the Renaissance was a revival of visual motifs, images and image-types. In that phenomenon Warburg had discerned an "empathetic pictorial memory" that informed and sustained history. And it was that mnemonic power of images that inspired his last ambitious project: *Mnemosyne*, a great picture atlas. The fragments of that endeavor are to be found in the thematic screens of juxtaposed photographs that Warburg used to illustrate his lectures, in the dialogic relationships established by these images, each reflecting possibilities of meaning on its neighbor.

More than the effort of an inspired scholar to build from detailed studies a coherent understanding of cultural history, the writings collected in *The Renewal of Pagan Antiquity* present a stirring example of intellectual passion, of a scholar committed to expanding the boundaries of traditional art history, opening new and broader vistas on the history of culture. Warburg concluded his essay on Luther and Dürer with a characteristic balance of arrogance and humility: "May the history of art and the study of religion—between which lies nothing at present but wasteland overgrown with verbiage—meet together one day in learned and lucid minds (minds destined, let us hope, to achieve more than the present writer); and may they share a workbench in the laboratory of the *iconological science of civilization*." It is not exactly clear whether the discipline has cut through the verbiage sufficiently to accept this momentous invitation. ■

Reduction and Betrayal

By Peter Berkowitz

The Problematics of Moral and Legal Theory by Richard A. Posner

(Harvard University Press, 320 pp., $29.95)

I.

Richard Posner, Chief Judge of the U. S. Court of Appeals for the Seventh Circuit and a senior lecturer at the University of Chicago Law School, is the author of over 1,500 judicial opinions, and the author, coauthor, or editor of more than two dozen books on myriad facets of the law. It is not only this staggering output over the last thirty years or so that accounts for his reputation as perhaps the leading legal thinker of his generation. Posner's preeminence also stems form his penchant, primarily in his scholarly writings, for bluntly repudiating conventional wisdom, for calmly reaching counterintuitive conclusions about law and public policy, and—what is especially galling to many of his many critics—for doing all this with a constantly illuminating intelligence, with plain-spoken and pointed prose, and with a reasoned respect for the rule of law and the institutions and the individuals that secure it.

Posner is above all associated with the "law and economics" movement. Its origins are to be found in certain seminal articles that the economist Ronald Coase and the legal scholar (and now federal judge) Guido Calabresi published in the early 1960s; but no work contributed more to its rapid ascent than Posner's *Economic Analysis of Law*, which appeared in 1973. The premise of "law and economics," as Posner puts it, is that men and women "act as rational maximizers of their satisfactions." It holds that much of the actual workings of our legal system, when rightly analyzed, can be seen to be driven by a concern with economic efficiency. It seeks to demonstrate that attention to questions of efficiency yields unexpected but valuable suggestions for the reform of legislation and adjudication. Recently it has come to emphasize the importance of empirical research and quantitative analysis to the understanding of how law and legal institutions actually operate. And it contends that efficient results are generally produced by allowing individuals to decide for themselves as much as possible what they want and how much they will pay for it.

Thanks to the influence of the "law and economics" movement, it is impermissible today for legal scholars to assume that new legislation is sound merely because it reflects good intentions, or that a judicial

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decision is rightly reasoned so long as it has been transparently derived from precedent and the logic of inherited case law. In explaining why it is important to examine the actual consequences flowing from every public policy, statute, and judicial holding, and the variety of costs—sometimes unintended and perverse—of their implementation, "law and economics" has made a lasting contribution.

But the contribution has not come without controversy, or cost. For the practitioners of the economic analysis of the law tend to be crusaders. And the crusading spirit threatens the scholarly spirit. The one true method that inspires the crusaders has a tendency to constrict the imaginative sympathies and to sap the skeptical energies that otherwise bring into focus the full range of experiences and imperatives that organize—and disorganize—human affairs. The crusaders do not believe only in economics; they believe also in economicism. It is not enough for them to insist that economic analysis is a valuable or even an indispensable approach to the problems of law. They aspire to conquer the whole realm of social inquiry with their axioms, to convert all who study human affairs to the authentic form of knowledge.

IT IS CERTAINLY true that at times Posner and his scholarly allies acknowledge limits to what can be learned from the economic analysis of law. In their more guarded moments, they say that economics can show how to make the legal system more efficient, but not whether efficiency should triumph over other principles and goods. "What economists can say, which is a lot but not everything, is that *if* a society values prosperity (or freedom, or equality), here are policies that will conduce to the goal and here are the costs associated with each. They cannot take the final step and say that society ought to aim at growth, equality, happiness, survival, conquest, stasis, social justice, or anything else." In their more enthusiastic moods, however, Posner and some of his followers do indeed write as if efficiency is all, because all principles and all goods, including justice, are reducible to it.

What is so impressive about Posner—and so exasperating, and so exhausting—is that he does not merely assert the sovereignty of economics. In his many writings he has tried to explain virtually the entire known continent of legal doctrine and case law in economic terms. So, for example, racial discrimination is bad because it is socially inefficient, and laws forbidding it are best understood as rational expressions of the desire to maximize individual satisfaction by preserving peaceful social relations. Our decisions about sex should be seen as based on the "best estimate of the nature, magnitude, and probability of the consequences of the alternatives among which one can choose in an effort to maximize one's utility." Baby markets ought to be established because they would be the most effective way to distribute infants to those best able to care for them. And so on. Once you get the hang of it, you can redescribe all human affairs in economic terms, and interpret all moral and political dilemmas as market problems. The really urgent question is whether something precious gets lost in the re-description.

ADVOCATES OF THE economic approach to law will brush off such fears, insisting that economics is only a tool or a model. The purpose of its simplifying assumptions and its theoretical analyses, they say, is not to portray the world as it really is or to tell people how they ought to live, but to provide useful predictions about how individuals can satisfy their wants, whatever they happen to be. And the time is ripe to ground law in this kind of analysis, they might add, because ordinary citizens increasingly concur with social scientists and academic philosophers that reason is powerless to rank our desires or to instruct us as to which wants we should want. In the circumstances, economic analysis can seem like an excellent means for analyzing social life and urging reforms without invoking contentious moral criteria. As the economists say, economics is value-neutral.

Yet the costs, as economists also say, include those that are unintended. Leaping into the void created by the contemporary estrangement from philosophical reason, economic analysis has tended to sanction the void and to reinforce the belief that human beings are nothing more than complicated calculating machines. Such judgments about the moral life may not be part of the economist's mandate, but they do seem to be insinuated by the economist's method. Like other professions, economics has its occupational hazards: the daily practice of making simplifying assumptions about human affairs heightens the likelihood of thinking and acting and inducing others to think and act as if human beings were precisely this simple. Perhaps this cost is avoidable. Just as coal mining does not invariably cause lung cancer, so too economic analysis, which invites us to reconceive every act of courage, generosity, or love as a reflection of an atypical individual utility function, need not coarsen habits of thought and wither the moral imagination. But it helps.

II.

OVER THE YEARS, Posner has replied in a variety of ways to anxieties about the moral implications of the economic approach, but essentially he has stuck to his guns, pursuing the quest that he launched a quarter of a century ago for a "utilitarian theory of justice"—for a theory that explains the whole of morality in terms of simple pleasures and pains, and also in terms of the rules of social cooperation for maximizing the former and minimizing the latter. Of late, however, Posner has adopted a new approach to vindicating economic analysis. Instead of concentrating on showing the sweep and the power of economics, he has turned to exposing what he believes to be the poverty of the claims to guide law by other disciplines. Economics may have its flaws, but they are as nothing, in Posner's view, compared to the deficiencies that disfigure the pretenders to the throne.

In the contest to provide advice to lawmakers and judges, the most influential rival to "law and economics" has been analytic moral philosophy, particularly the strain that takes its inspiration from Kant. These professors typically begin by positing abstract premises about the self and society. From these premises, which they treat either as self-evident or as so widespread and uncontroversial as to be inescapable for reasonable persons, they seek to derive individual rights and moral duties as well as the proper scope of state action. Occasionally, as in the case of Ronald Dworkin, they claim to be able to infer the substance of American constitutional law.

In the fall of 1997, Posner launched an all-out attack on analytic moral philosophy. The attack was made at Harvard Law School, in the Oliver Wendell Holmes Lectures. Posner, who is an avid admirer of Holmes, made much of the date of his assault. For a hundred years earlier, across the Charles River at Boston University Law School, Holmes delivered a lecture that was to become the most cited law journal article of all time. In "The Path of the Law," which Posner with justice calls Holmes's "greatest essay," Holmes challenged the orthodoxy of his day. In its most extreme form, the orthodoxy proclaimed that law was a deductive system of fundamental moral propositions. In fact, said Holmes, law and morality represent distinct domains that on occasion may overlap but in reality have different origins and purposes.

In order to protect the integrity of each, Holmes continued, they must be kept analytically distinct. Whereas morality concerns conscience and universal principle,

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law is the study "of what courts will do in fact, and nothing more pretentious." In reaching judgments, what courts will do in fact is to engage, often surreptitiously, in a process of "weighing considerations of social advantage." Holmes thought that the surreptitiousness was a mystification. Courts should do their weighing of social advantage right out in the open; and the science that enabled courts to weigh social advantage accurately, Holmes casually announced, was economics.

For Posner, these observations are the beginning of wisdom about the law. In his Holmes Lectures, he wasted no time in sallying forth against the pretensions of academic moral philosophy to guide law or life. Derisively branding academic moral philosophy "academic moralism," Posner declared it "incapable of contributing significantly to the resolution of moral or legal issues or to the improvement of personal behavior." And turning the conventional wisdom on its head, Posner argued that a far more fruitful approach to the study of morality would be the approach exemplified by the unsentimental Nietzsche, who searched for the actual or effective amoral intentions and even immoral intentions that undergird morality.

Posner offered several reasons for the parochialism and the impotence of academic moral philosophy. First, and rather brusquely, he asserted that there are no transcultural or transcendent moral truths, and therefore no solid basis from which morals could be derived. Second, he claimed that the realm of morality is much narrower than academic moral philosophers suppose: many principles that they put forward as universal and moral are better understood as locally generated, contingent rules of social cooperation. Third, moral philosophy as it is practiced in the academy is, in his view, incapable of inspiring human behavior. Its abstract and technical arguments do not reach our motivations and cannot overcome our narrow self-interest or our deep-seated moral intuitions; the sharp and persistent disagreements among academic moral philosophers—from conservative natural law theorists to radical social democrats—furnish effective rationalizations for any and all preferences or principles; and the careerism fostered by the professionalization of philosophy in the academy is incompatible with the freedom of spirit that is necessary to produce illumination and inspiration in the realm of ethics.

Once one overcomes the mystifications promulgated by academic moral theory and understands that morality is best conceived of functionally, in the spirit of evolutionary biology, as the set of general rules of conduct that experience and reason recommend as conducive to self-preservation and the satisfaction of desire, one can see, or so Posner argued, that legal reasoning can flourish without recourse to moral theory. To prove his point, Posner examined a variety of cases including euthanasia, abortion, racial segregation, and affirmative action. Regarding each of these cases, he argued that where the legal materials fall short of providing a clear answer to a concrete controversy, courts have not availed themselves, and in reaching their decisions have had no need to avail themselves, of moral philosophy.

POSNER'S LECTURES WERE published in 1998 in the *Harvard Law Review* along with the animadversions of distinguished critics—Ronald Dworkin, Anthony T. Kronman, Charles Fried, John T. Noonan, and Martha C. Nussbaum. His critics differed among themselves on the success of his criticism of academic moral philosophy, but for the most part they found the spirit of the lectures disagreeable, and they expressed their disapproval in dour tones. Dworkin could scarcely contain his indignation, conveyed in the insulting title of his long response: "Darwin's New Bulldog." Fried frowned at Posner's "display of dyspepsia" and "diatribe against moral and political philosophy." Kronman solemnly declared the analysis "depressing," awash in "cynicism," and "despairing from start to finish." Nussbaum grimly proclaimed that Posner's one-sided and relentless criticism of "reason's pretensions," and his defense of "an implausibly mechanistic picture of human personality," made his lectures an "occasion for sadness." Noonan was the exception among the critics: he criticized Posner for putting too much faith in science and the theory of evolution, but he found Posner's discussion "candid" and "courageous," and his indictment of academic moral philosophy marked by "comprehensiveness and clarity."

Whatever their differences about the status of academic moral philosophy, the critics were united in believing that philosophical reflection about morality, or the reasoned quest for knowledge about enduring standards of justice, survived Posner's broadsides. Indeed, the critics agreed on three central notions: that philosophical reflection about morality, rightly understood, is an inherent good; that it is inescapable in practical life and cannot be altogether banished from legal thinking; and that the rejection of morality's claims to universality is itself a moral position, and a decidedly unattractive one.

But Posner did not give an inch. He seemed invigorated by his exposure to "the fires of hostile criticism." In responding to Kronman's charge that his analysis was "permeated by pessimism" and "despairing from start to finish," he was almost impish:

> I would not be surprised to be described as a complacent optimist, a Pollyanna who revels in the fall of communism, the discomfiture of collectivists, the worldwide triumph (however brief it may prove to be) of free markets and commercial values, and the wealth, freedom, diversity, opportunity, and dazzling technological advances powered by that triumph. The pessimist is Kronman, because he believes that moral philosophy, which he agrees is in a sorry state, is essential to civilization. I do not believe that.

About Dworkin, he was scathing:

> Dworkin asks us to imagine that there are many people who, though not philosophers or even intellectuals, have "a yearning for ethical and moral integrity" or "want a vision of how to live." Such people, he claims, "might well ask themselves, for example, whether their views about abortion presuppose some more general position about the connection between sentience and interests or rights." The picture is of people standing around waiting to connect with Dworkin, who speaks in just those lofty terms. I don't think there are many people like that; very few people outside the academy talk in the highfalutin' style of academic moralism or can understand arguments couched in that style; how many even know what "sentience" means?

Needless to say, barbs do not refute arguments; but Posner's retort to Dworkin does insinuate a fine doubt about the relation between academic moral philosophy and the people whom such philosophy is meant to enlighten.

IN FACT, THOUGH he was not particularly impressed by the possibility, Posner did not rule out that great works of moral philosophy might edify and inspire. More modestly—and more offensively, to his interlocutors—he adamantly reaffirmed in his reply that the work produced by professional philosophers could not so edify and so inspire. He drew additional support for his assessment of the feebleness of academic moral philosophy from the very responses of his critics: in seeking to illustrate the power of moral philosophy to influence politics and guide lives, his critics could do no better than appeal to Aristotle, Cicero, Rousseau, Burke, or Marx, long-dead philosophers who, in any case, as Posner relished pointing out, were not professors.

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Posner continued to insist uncompromisingly that law and morals are distinct, and that when it comes to hard cases judges need not have recourse to academic moral theory. Only one of his critics, Posner noted, even attempted to show how moral reasoning influenced judicial decisions. That critic was Dworkin, who argued that in *Brown* v. *Board of Education* the Supreme Court found an anti-caste principle in the Equal Protection Clause of the Fourteenth Amendment that prohibited laws that discriminated on the basis of race, because they depended on the assumption that some individuals are inferior and therefore less deserving of respect from the law than others. To this, Posner replied that one does not need academic moral philosophy to find the anti-caste principle embodied in the Equal Protection Clause or to apply it to the circumstances of *Brown*. Moreover, the Court in *Brown* invalidated the principle of separate but equal in education on empirical grounds, contending that by injuring their self-esteem and diminishing the value of their education, segregation in the schools deprived black children of the equal protection of the laws.

Nor did it take sophisticated moral theorizing, Posner continued, to extend the holding in *Brown*, which concerned education, to the elimination of racial segregation in other domains. Whatever might have been true eighty-five years earlier, when the Reconstruction Amendments were drafted and ratified, by the 1950s the social meaning of legalized segregation—the stigmatization and the subordination of blacks—had come to be well understood by everybody. It did not take a professor to see that the doctrine of separate but equal was inconsistent with the plain meaning of the Fourteenth Amendment's guarantee of the equal protection of the law, and that it was rightly, without appeal to moral theory, struck down by the Court.

III.

In his always stimulating, frequently brilliant, occasionally laugh-out-loud funny, and at a few crucial junctures resolutely obtuse new book, Posner revises and elaborates the arguments of his Holmes Lectures. His theme remains "the demystification of law and in particular the freeing of it from moral theory, a great mystifier," but he goes beyond his original discussion in two important ways. First, he elaborates at length the sense in which he considers himself a pragmatist, devoted to the principle that the value, the meaning, and the truth of ideas and acts should be judged in terms of their practical consequences, and not derived from formal theories or abstract speculation; and second, he declares that it is sociology that is the science most useful to the law.

According to Posner, pragmatism—as it was developed by Charles Sanders Peirce, William James, and John Dewey, and is today most closely associated with the postmodern liberalism of Richard Rorty—throws into sharp relief the impotence of academic moral philosophy, and also provides the orientation that ought to guide judicial reasoning in cases where traditional legal materials do not yield determinate results. As for sociology, Posner argues that it illuminates the norms and the shared meanings on which many judicial decisions turn. He demonstrates the further utility of sociology by showing how the universal trend toward professionalization that was detected by Weber—the claim of an occupation to be based on specialized, socially valuable, knowledge-based skills that are acquired through a long and well-regulated education or apprenticeship—can account for both the deterioration of moral philosophy in the academy and the steady improvements in the quality of the bar and the bench.

One should not be misled, however, by Posner's affirmation of pragmatism or by his new enthusiasm for sociology. His interpretation of morality has not changed. As always, he tends to reduce ethics to the non-moral and the subrational. As always, he strives to vindicate the economic analysis of law: his pragmatism affirms economics as the master science, and his sociology provides some of the factual knowledge that economics authoritatively interprets.

According to Posner, the alternatives presented by pragmatism and moral philosophy represent the "starkest choice." Whereas moral philosophy promises to derive from abstract theory the right answers to concrete moral dilemmas, pragmatism is a "method, approach, or attitude." It is a manner of studying the world, not a body of dogmas or a problem-solving algorithm. It is what judges should turn to, or really what they should do, when they confront difficult questions of law. Posner's "type of pragmatist" believes that

> the judge or other legal decision-maker thrust into the open area, the area where the conventional sources of guidance run out (such sources as previously decided cases and clear statutory or constitutional texts), can do no better than to rely on notions of policy, common sense, personal and professional values, and intuition and opinion, including informed or crystallized public opinion. Pragmatists also believe, however, that intuition and opinion and the rest can sometimes be educated by immersion in "the facts." I have put this term between quotation marks to signal that it is to bear a wider meaning than in the law of evidence. It is a sense that takes in the analytic methods, empirical techniques, and findings of the social sciences (including history).

There is much to admire in such a commonsensical view of the judge's task. Indeed, it would be hard to quarrel with this notion of practical reason in robes, were it not for the paradoxical antithesis between pragmatism and moral philosophy on which Posner is determined to base it. For built into common sense, and embedded in our personal and professional values, partially constituting intuition and opinion, including public opinion, are convictions about virtue, justice, and the good. And at least some of our enduring convictions suggest that virtue is not only useful but its own reward; and that the demands of justice transcend our local beliefs and practices; and that the good is a proper object of aspiration for all who share our humanity. To insist that systematic empirical inquiry on the one hand, and reflection on virtue, justice, and the human good on the other hand, represent the "starkest choice"—indeed, to believe that they represent a choice at all, rather than integral elements of a larger, more complex, and elusive whole—is itself a choice more dogmatic than pragmatic.

Contrary to the pragmatist's principle that theory must submit to experience, Posner's stark choice owes more to a rigid theory about the world than an immersion in the density of experience. Consider his treatment of altruism, which is so marred by faulty thinking that it is hard to believe that it was generated by the same man who effortlessly roots out and exposes the sophistries of other scholars. He begins reasonably enough, declaring that "a good deal of moral and immoral behavior is explicable without regard to moral categories." But with great alacrity, and with next to no argument, he jumps from this reasonable proposition to the highly contentious one that altruism, like all moral behavior, ought to be explained *entirely* without regard to morality. That is a vaster, and vastly more dubious, claim.

A part of the problem lies in the distortions of ordinary human experience that follow from Posner's account. Thus he concedes that altruism, or

> helping behavior not motivated by the promise of a reward or the threat of a

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> punishment . . . is something that can be and often is motivated by love or by some dilute form of it such as compassion or sympathy. And love and its cognates are not moral sentiments. The injunction to love thy neighbor is an appeal to duty, not to emotion.

But surely such a concession is based on a false dichotomy between love and morality. Love is not love if it knows no duties to the beloved.

Another part of the problem springs from Posner's skewed presentation of the claims of moral philosophy. He seems to believe that by observing the considerable limits of moral argument to change opinion, he has scored big against the claims of moral philosophy to provide authoritative standards that can guide human life: "A moralist cannot persuade you by the methods of reason to one morality or another, but he can *offer* you a morality that you can accept or reject for reasons of pride, comfort, convenience, or advantage, though not because it is 'right' or 'wrong.'" One hardly knows where to begin in responding to the many misleading implications packed into this short statement.

For a start, Posner confuses rhetoric with reason, as if the rationality of a principle were measured by the number of people who can be brought to affirm it or by the manner in which the majority of individuals come to hold it. Posner also denies categorically what his argument allows him at most to conclude generally and for the most part. The fact that many people cannot be moved by reason to change their moral beliefs does not mean that no individuals can be moved by the force of the better argument; and in no way does it imply that reason is unable to discern right from wrong. Moreover, and once again simplifying the experiences that he is supposedly explaining, Posner overlooks that one can take pride in doing the right thing for the right reasons, that comfort and convenience may be morally relevant, that advantage can be understood as what enables one to perform one's duties reliably and well.

YET THE CORE of the problem with Posner's effort to reinterpret altruism and the whole of the moral life in non-moral terms is that it is based on an appeal to evolutionary biology—an appeal that is not only sketchy and difficult to falsify, but also, despite Posner's avowed pragmatism, theory-driven in the extreme:

> *Evolutionary biology hypothesizes* that altruism derives from the evolutionary imperative of inclusive fitness—the drive to maximize the number of copies of one's genes by maximizing the number of creatures carrying them weighted by the closeness of the relation. The inclusive fitness of a social animal like man is greatly increased by his having a proclivity to help his relatives, so *it is plausible* that this proclivity evolved as an adaptive mechanism. In the prehistoric era in which our instinctual preferences were formed, *people probably lived* in small, isolated bands, so most of the people with whom they dealt were people with whom they had *continuous* dealings. *It may not have been essential,* therefore, to be able to discriminate between intimates, with whom one had relations based on trust as a result of blood ties or reciprocal dealings, and those others—call them "strangers"—with whom one did not have repeated face-to-face interactions. Conditions today are different. We interact a great deal with strangers. But the genes are easily fooled when confronted with conditions to which man did not have a chance to adapt biologically because they did not exist in prehistoric times. That is why a pornographic photograph can arouse a person sexually or a violent movie frighten the audience, why people are more frightened of spiders than of cars, and why men do not clamor to be allowed to donate to sperm banks. Voting, giving to charities, and refraining from littering, in circumstances in which there is neither visible reward for these cooperative behaviors nor visible sanctions for defection, *may illustrate* an instinctual, and as it were biologically mistaken, generalization of cooperation from small-group interactions, in which altruism is rewarded (and thus reciprocal) and failures to reciprocate punished, to large-group interactions in which the prospects of reward and punishment are so slight that cooperation ceases to be rational.

Or voting, giving to charities, and refraining from littering may illustrate other instincts, or they may illustrate no instincts at all. (With the exception of "continuous," the italics in that peculiar paragraph are mine.)

Whatever the case may be concerning Posner's hypotheses about the prehistory of our instinctual preferences, and however he might justify the odd anthropomorphism that allows him to talk of the capacity for deception on the part of our genes, in these sweeping speculations it is certainly not the voice of experience speaking. Indeed, it is not even science holding forth. Posner's invocation of evolutionary biology belongs to a grand and (as Posner's own language indicates) highly conjectural natural history of mankind.

It is important to be clear about the actual structure of Posner's argument. He does not turn to evolutionary biology as a result of conclusions won from a careful inspection of the claims of all, or some, moral philosophy. It is instead his assumption of the truth of evolutionary biology that impels him, before examination, to reject out of hand every claim ever made on behalf of universal moral principles. Such rejectionism is manifestly unreasonable in that it invests hypotheses with the aura of certainties and treats merely plausible inferences from these questionable starting points as if they were necessary and definitive explanations of human conduct. Posner is entitled, of course, to his flights of speculation. But it is illicit and unacceptable for him to treat these flights as if they provided a granite foundation that reasonably invalidates all other forms of interpretation of the human condition.

IV.

WHEN POSNER KEEPS his eyes trained on the pretensions of academic moral philosophy, he proves himself a thinker of an altogether higher order. Indeed, the value of Posner's pragmatism—as well as the dogmatism that drags it down—can be observed in his critical discussion of an influential article by the moral philosopher Judith Jarvis Thomson. In "A Defense of Abortion," which appeared in 1971, Thomson argues by means of an analogy that has become famous among specialists in ethics and moral philosophy. A woman forced to carry her fetus to term, Thomson contends, is like a person involuntarily connected by tubes to a famous violinist for nine months. If the tubes connecting the person and the violinist, who are strangers to each other, are removed, the violinist will die of kidney disease. Thomson argues that though separation will cause the violinist's death, the law, which does not recognize a duty to rescue, would not force the person, or the involuntary rescuer, to remain connected to the violinist. So too, Thomson reasons, the law ought not to compel the mother to remain connected to her fetus for nine months, even if the fetus is regarded as a human being.

Academic moral philosophers have found Thomson's analogy to be decisive. In a recent book, for example, the political theorists Dennis Thompson and Amy Gutmann have declared that it "should convince even people who perceive the fetus to be a full-fledged person that to permit abortion is not obviously wrong in the case of a woman who becomes preg-

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nant through no fault of her own (for example, by rape)." But Posner is not impressed:

> I find it difficult, despite the fame of Thomson's analogy in moral-philosophy circles, to take this "reasoning" seriously. To begin with, we can have no settled or reliable intuitions concerning her hypothetical case, because it is far outside our experience; it belongs to science fiction. In the second place, a woman normally is not immobilized by being pregnant. Third, the fetus is not a "stranger" to its mother in the ordinary sense of the word, which is the sense it bears in the analogy. The law punishes the neglect of a child by its parents, even if the child was the result of a rape; and Thomson does not suggest that she disapproves of such punishment or thinks it anomalous that the parents do not have the same legal duties to other people's children as they do to their own. Fourth, it is by no means obvious that the law should *not* impose a general duty to rescue strangers when the rescue can be effected without mortal peril to the rescuer. The laws of many European countries and now of several U.S. states do impose such duties; the objections to them are of a practical character unrelated to the morality of refusing to be a good Samaritan.

And if these swift and sharp appeals to common sense and basic considerations of law were not enough to eviscerate Thomson's analogy, Posner identifies a final, fatal flaw: that the analogy obscures the difference between letting die, which is what the involuntary rescuer does when he removes the tubes that connect him to the violinist, and killing, which, as Posner's precise technical discussion makes clear, is what a doctor does in the various medical procedures for aborting a fetus.

In view of the stunning inadequacies of the reasoning that underlies Thomson's analogy, the question becomes why academic moral philosophers, whose professional responsibility is to reason rigorously about right and wrong, have overwhelmingly embraced it as a justification for a woman's right to abortion. Posner's unkind answer is that academic moral philosophers are mental provincials, rationalizers of the moral intuitions of a narrow community of like-minded secular intellectuals. They are all but unable to conceive that any morally respectable person could wish to prevent a woman from aborting a child that she did not want; but, as Posner dryly observes, "an appreciable number of people, not certifiably insane, feel differently, and moral philosophy has no resources for resolving the disagreement."

Religious Consolation

One size fits all. The shape or coloration
of the god or high heaven matters less
than that there is one, somehow, somewhere, hearing
the hasty prayer and chalking up the mite
the widow brings to the temple. A child
alone with horrid verities cries out
for there to be a limit, a warm wall
whose stones give back an answer, however faint.

Strange, the extravagance of it—who needs
those eighteen-armed black Kalis, those musty saints
whose bones and bleeding wounds offend good taste,
those joss sticks, houris, gilded Buddhas, books
dictated by Moroni in detail?
We do; we need more worlds. This one will fail.

John Updike

WHY, IN POSNER'S view, is academic moral philosophy of such little help? In part, of course, because of what he takes to be the inherent weakness of all moral philosophy. Yet this is not the end of the matter. Posner argues that the moral philosophy made in the academy is particularly feeble because of the pressures produced by, and the perks that accompany, the professionalization of academic life. The publishing and the pandering often necessary to acquire tenure; the comfort, the insularity, and the lack of accountability that routinely accompany tenure; the narrowness of specialization and the cultivation of technical jargon that frequently catapult one to the top of the discipline—all these realities conspire to produce writings that are hermetically sealed to the general reader and inattentive to the passions and interests of the ordinary citizen.

But Posner is also concerned with the inner effect that moral philosophy has on those who make a profession of it. It is a caricature, to be sure, but Posner's hilariously taxonomic summary of the morality of liberal academics requires one to ponder seriously whether self-righteousness, credulity, and conformism constitute the *déformation professionnelle* of the academic moralist:

> The moral codes of academic philosophers tend in fact to be at once nonstandard and hackneyed, predictable, and seemingly unexamined. The liberals favor abortion rights à outrance, women's rights, greater equality of incomes, and a mild socialism. They disapproved of Soviet-style communism, but very quietly, with maybe a soft spot for East Germany, or Cuba, or Yugoslavia—or even Mao's China. They are internationalists, multiculturalists, environmentalists, sometimes vegetarians. They are against capital punishment, and so it might be said of them unkindly that they pity murderers (and penguins, and sea otters, and harp seals) more than fetuses. They support the theory of evolution when the question is whether creationism should be taught, but reject it when the question is whether there is a biological basis for any of the differences in attitude or behavior between men and women. They want to regulate cigarette smoking out of existence but to permit the smoking of marijuana. They argue for abortion by analogizing mother and fetus to strangers (Thomson's analogy) but against surrogate motherhood by emphasizing the bond between mother and newborn. They are for the strongest possible public measures of safety and health but against requiring people who are infected by the AIDS virus to disclose the condition to people whom they might infect. They believe that people are prone to wishful thinking, cognitive dissonance, rationalization, hyperbolic discounting (shortsightedness), false consciousness, and all sorts of other cognitive disabilities that make market choices and folk beliefs lack authenticity; but they do not consider the effect these disabilities are likely to have on the power of academically directed moral deliberation to engender moral improvement. They are secular (or deist) and therefore consider sexual practices morally indifferent and fear the Religious Right. They are politically correct, and they vote Democratic.

No wonder Posner concludes that the effective function of academic moral philosophy is to forge "a community of believers" by fortifying the convictions of the faithful.

The most troubling, and the most philosophically significant, of Posner's criticisms of academic moral philosophy is that expertise in the moral-reasoning profession may actually make one *less* moral. Posner cites the work of Samuel and Pearl Oliner, whose book, *The Altruistic Personality: Rescuers of Jews in Nazi Europe*

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(1988), indicates that education (and religion) had no statistically significant effect on the propensity of Germans and Poles during World War II to rescue Jews, and the work of Michael Gross, whose *Ethics and Activism: The Theory and Practice of Political Morality* (1997) suggests that in Nazi Germany the more education one had, the less likely one was to become a rescuer.

Posner has an explanation for these disturbing findings. Interestingly, it resembles a criticism of sophistication and learning that Rousseau memorably advanced, but with a moral intention very different from Posner's, in the *Discourse on the Arts and Sciences*. Expertise in the art of moral reasoning, Posner also argues, furnishes an argument for every inclination and occasion; it enables you to devise elegant justifications for evading your obligations and it enhances your ability to gracefully reconceive your desires as your rights and other people's responsibilities. Yet Posner and Rousseau part ways when it comes to the purpose of criticizing expertise in moral reasoning. Whereas Rousseau's aim was to protect the morality "engraved in all hearts" from the pretensions of sophisticated self-deceivers and learned hypocrites, Posner's aim seems to be to refute the claims of the professors as part of a larger effort to search out and destroy any and all pretensions on the part of conscience or reason to declare what is just and good.

WHILE SUCH A view of morality may not be good for the moral philosophers, Posner certainly thinks that such clarity about morality is good for law. In contrast to its effect on moral philosophy, professionalization, according to Posner, has had by and large a beneficial impact on the bar and the bench. By demystifying law, by making adjudication more uniform, and by compelling judges to recognize the true grounds of legal reasoning, professionalization has created an opportunity to ground law in science and empirical inquiry, particularly in such successful disciplines as economics, psychology, and evolutionary biology. In a highly informative discussion of the transformation in recent decades of administrative law, Posner demonstrates how public choice theory—the application of the general principles of economics to politics—has improved regulation of hazards to safety, health, and the environment.

What is needed now, Posner concludes after a powerful analysis of pragmatic adjudication in a range of fields of law, is for law professors to turn away from their fruitless dalliance with moral theory and to make themselves useful to judges and to society as a whole by collecting and analyzing the data that can provide a firm base of knowledge—the lack of which, in Posner's view, is what makes hard cases hard. Genuine professionalism would mean "overcoming law," or replacing the practice we now know as law with a more rational and effective form of social control.

V.

POSNER MAKES A strong case for reconceiving law as social science or policy science; and his polemic against academic moral philosophy provides many guilty pleasures. Unfortunately, while both parts of his argument can be detached from Posner's sovereign and highly questionable view that morality is best understood in non-moral and subrational terms, each part betrays a tendency to overreach and to ratify it. And this larger failing suggests that an analysis of the institutional possibilities and constraints on courts, however persuasively it may counsel against welcoming academic moral philosophy into the courtrooms and the judges' chambers of America, can itself yield little insight into the nature of morality.

Moreover, demonstrating that academic moral philosophers often delude themselves about their capacity to solve moral dilemmas, and that they exhibit a habit of dressing up their heartfelt convictions as necessary truths of a universalizing moral reason, will not suffice as a reason to desist from philosophical reflection on morality. Neither is moral philosophy retired by the perfectly unimpeachable observation that self-knowledge is scarce, and that hypocrisy is rampant, and that conduct that is justified in moral terms can in principle always be redescribed and often compellingly explained in non-moral terms. Experience itself—the god of the pragmatists—continually compels us to search for a justice that goes beyond our will and transcends the particular values of our community. The voice of this experience stubbornly refuses to be silenced.

All this has a bearing on Posner's criticism of moral philosophy and on his proposals for the reform of law, because the path of the law and the path of justice are intertwined in such a way that disrespecting the claims of one impairs the integrity of both. The incorrigibility of justice's claims can be seen by returning to Posner's quarrel with Thomson's abortion analogy. By his own lights, his criticism was not intended to destroy the case for the legal protection of abortion. Indeed, by dispassionately showing that what is at stake in abortion is the killing of an unborn child, and that there are powerful arguments both for protecting the lives of unborn children and for protecting the right of women to control their own bodies, and that science is powerless on its own terms to decide whether abortion should be protected or prohibited, Posner's analysis points to the inescapability of moral judgment, if not for courts then at least for those who (apparently like Posner) have an interest in understanding.

Of course one could go about life in an unthinking daze. And in the case of abortion, the courts may act properly when they avoid reaching a decision on moral grounds. Owing to technological developments and changing mores, however, pregnant women—along with the fathers of their unborn children, their parents and friends, and indeed their fellow citizens—frequently face a choice that implicates elemental beliefs about duty, justice, and the sanctity of human life. For the many people who cannot help but make a choice, abortion poses the sort of devastating question, the sort of fundamental or "foundationalist" question, that is occasionally confronted in moral and political life; that causes intuitions to run aground, and convictions to buckle under the burden, and principles to tire and to falter.

One response is to ignore such questions. Another response is to dismiss them, in the haughty manner of many contemporary thinkers, by claiming that they are poorly formed or uninteresting. But these responses, one would think, are not available to the true pragmatist. For the questions surrounding abortion are not placed there by idle intellectuals spinning sophistries. They are thrust upon us by the rude realities of everyday life. They cry out for clarification and reflection, though life, in its impatient rush, often demands immediate answers, however inadequate they may be. To ride roughshod over the questions about duty, justice, and the sanctity of human life that inhere in the debate over abortion is a betrayal of pragmatism's great principle, which is that our actions and ideas must give voice to—not suppress or distort—the intricacies of our experience.

IT IS A TRIBUTE to the natural eclecticism of his mind that Posner believes that he has found an ally for his type of pragmatism in Nietzsche. The problem is that Posner takes from Nietzsche a lesson about morality and philosophy diametrically opposed to the lesson that the great German immoralist intended to teach. Contrary to Posner's reading, Nietzsche demonstrates that what makes the quarrel with academic moral philosophy truly urgent is the need to defend philosophy's good name, its exalted and indispensable task.

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Certainly Nietzsche detested the "academic moralism" of his day, and he would have been second to none in excoriating that of our own—but not for the reason that Posner supposes. He thinks that Nietzsche can be seen as an enemy of morality, or as a critic of conventional ethics who preferred his own favored code—warrior morality or the will to power—on aesthetic grounds. Yet both ways of seeing Nietzsche are wrong. It is true that Nietzsche delighted in portraying the spirit of liberal democracy or bourgeois ethics as herd morality or slave morality, but the grounds of his opposition are all-important. He attacked it with stinging eloquence and savage brilliance in order to vindicate a view of virtue, justice, and the good in which the love of truth was the highest love and the peak of human excellence.

THIS IS WHY Nietzsche, in his first *Untimely Meditation*, brands David Strauss a *Bildungsphilister*, a cultural philistine, and derides him for believing that one can embrace the Darwinian account of man and still affirm Christian morality. It is why, in the first section of the first essay in *On the Genealogy of Morals*, he proclaims that the only motivation that he will tolerate for explanations of human conduct that reduce man to mechanistic forces or biological impulses is the proud, magnanimous determination "to sacrifice all desirability to truth, *every* truth, even plain, harsh, ugly, repellent, unchristian, immoral truth.—For such truths do exist." It is why, in *Beyond Good and Evil*, he connects virtue, freedom, and self-knowledge in the crowning thought that "the noble soul has reverence for itself."

If you wish to understand a philosophy, Nietzsche instructs, look to the "moral (or immoral) intentions" out of which it has grown. Indeed, such attention to a thinker's intention shows just how decisively Posner parts ways with Nietzsche. Posner is bent on cutting philosophy down to size in order to show that the human soul is much less than it seems. Nietzsche, so as to bring to light the soul's forgotten grandeur, aimed to restore an understanding of the "masterly task and masterfulness of philosophy."

In his campaign to vindicate pragmatism as a flexible and open-ended process of inquiry, Posner lobbies relentlessly for a narrow, fixed, and final vision of the universe. His pragmatism does not invite one to greet the world with curiosity and wonder. Instead it stipulates a dour and inviolable mechanistic universe—what Hobbes posited explicitly and knowingly as matter in motion and nothing more, and what his heirs in the social sciences have affirmed implicitly and uncritically. Surely there is much in the varieties of human experience that counsels against this dismal interpretation of the human condition, however breezily it is advocated.

There is much in the pragmatist tradition that counsels against it, too. For William James, pragmatism is "a mediator and reconciler." It is neither anti-metaphysical nor materialist, and it recognizes that our experience regularly gestures toward first principles and truths that we do not make. It does not mock or repudiate our theories, it "unstiffens" them and thereby makes them more adequate to their task, which is the organization and the evaluation of experience. Pragmatism, as James understood it, is a friend of truth because

> she has in fact no prejudices whatever, no obstructive dogmas, no rigid canons of what shall count as proof. She is completely genial. She will entertain any hypothesis, she will consider any evidence. It follows that in the religious field she is at a great advantage both over positivistic empiricism, with its anti-theological bias, and over religious rationalism, with its exclusive interest in the remote, the noble, the simple, and the abstract in the way of conception.

James goes so far as to say that pragmatism, because of its principled openness to the varieties of human experience, "widens the field for the search for God." From the Jamesian standpoint, then, you might say that the problem with Posner's pragmatism is that it is not nearly pragmatic enough.

It is a great accomplishment of pragmatism that it quickens our appreciation of the costs and the benefits of our ideas and our actions. And it is a heavy cost of Posner's brand of pragmatism that its view of human nature and of man's place in the world rigidly restricts the range and the character of the costs and the benefits that we are allowed in good conscience to take into account in assessing our ideas and evaluating our actions. It is one thing to stress the importance of attending to consequences, and it is quite another to insist that the only meaningful consequences are those that are amenable to economic analysis, or capable of mathematically precise measuring and weighing, or available for collection and examination by the latest innovations in social scientific method.

A pragmatic evaluation of Posner's pragmatism would explore the consequences for us of its tendency to deny, to depreciate, or to redescribe beyond all recognition the intimations of the heart, the still small voice of conscience, the stern demands of justice—that "echo of the infinite" and that "hint of the universal law" which Holmes, at the end of his greatest essay, allowed could be discerned in the "remoter and more general aspects" of the path of the law. To lose sight of such experiences and such imperatives, it should be said plainly, is no small cost, since what is at stake is our feeling for, and our understanding of, our own humanity. ■

ON THE HILL

continued from page 8

crats all declined my requests for interviews, their motives can be gleaned from the public pronouncements of New Jersey Senator Robert Torricelli, whose mental processes lie delightfully close to the surface. "There is no financial base for the core issues of the Democratic Party," he told journalist Elizabeth Drew. "Civil rights, the environment, pro-choice—they have a voting constituency, but they have no financial strength. In current American politics, you can't survive without a financial constituency."

And then there is this Torricelli gem from a few weeks ago: "Democrats have largely captured the education and environmental issues, and have an expanding advantage on guns and abortion," he explained to *The New York Times*. "There is no reason for us to lose on the tax issue." No, there probably isn't, unless by "reason" one includes such considerations as the good of the country.

In addition to this rather naked striving, there is also a simpleminded variety of centrism that assumes that the proper solution always lies between the two extremes. So, if Clinton wants a $250 billion tax cut, and the Republicans want $800 billion, then the best public policy must be somewhere around $450 billion. Recently, Breaux has dressed up his coarse tax-cutting urges in the soothing, high-minded tones of bipartisan statesmanship. "The bottom line here is that unless we both try to merge our different ideas, nothing is going to happen," he expounded last Sunday. "We're not going to have Medicare. We're not going to have a tax cut unless we come together." So, both parties can just get together and work out a mutually pleasing deal. Hmm. Where have we heard that before?

JONATHAN CHAIT

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WASHINGTON DIARIST

Homework

IT'S BECOME RECEIVED WISDOM that the baby-boomers are the greatest self-improvers in the history of the republic. Now that they've slimmed their bodies and expanded their minds, their houses are next. Scarcely a week goes by without a newspaper declaring that the booming—as they put it—stock market has prompted boomers to flock to stores such as Restoration Hardware to snatch up the latest crown moldings, $1,000 faucets, and other contemporary badges of prosperity. Of course, since many boomers are mechanically inept, they aren't actually installing these accoutrements themselves. Instead, they've been reduced to beseeching contractors to do the job for them. Deluged with such demands, many contractors seem to have acquired something of a diva complex. A few weeks ago, *The New York Times* reported that one sulky contractor will only accept jobs that are within a few blocks of his office. Others scorn any work that pays less than the paltry sum of $250,000.

I MIGHT FIND THE BOOMERS' PREDICAMENT more amusing if I weren't confronting the same problem myself. This past fall, even my humble apartment, on the block for almost two years, finally fell victim to the superheated economy and was sold. I suppose I could have found another rental, but a charming home in Cleveland Park beckoned, and, before I knew it, I had joined the ranks of first-time homeowners. Worse, I soon embarked on the dreaded enterprise known as "home improvement." Since I'm about as mechanically challenged as the boomers, this has meant turning over large sums of money, as well as my sanity, to a small army of outside laborers, a bevy of contractors and consultants and construction workers. Already my project is months behind schedule. The air-conditioning man was sentenced to jail, the painters were hired away for higher wages, and my contractor has recently been focusing on completing a million-dollar job for some America Online executive.

THE ENERGY WITH WHICH I HAVE devoted myself to sprucing up this house is all the more surprising to me because I've always been slightly suspicious of the idea of improvement, associating it with artificially imposed order and rigidity. No doubt this is at least partly a result of my upbringing. My father, a distracted classicist, was more interested in Homer than the state of our home. My mother was determined not to duplicate the conditions of her German childhood, in which every stray speck of dust was ruthlessly hunted down and expunged.

MY HISTORY CLASSES ONLY REINforced the message. Improvement is something that dictatorships are always trying to accomplish, whether it's Stalin building the new Soviet man or Singaporean strongman Lee Kuan Yew encouraging high IQ-test scorers to meet and mate. Democracy, by contrast, is inefficient and messy, often literally so. As Rudy Giuliani's tenure suggests, the tidier the city, the more authoritarian the mayor.

SUSPICION OF IMPROVEMENT, HOME or otherwise, is also a recurring motif in some of my favorite novels. In Dickens's *Dombey and Son*, for instance, the contrast between the impecunious former mariner Solomon Gills and the heartless lawyer Paul Dombey could hardly be starker. Gills, who is consumed by his antiquated nautical shop, benignly raises his plucky young nephew, Walter. Dombey literally kills his sickly son with his outlandish demands for scholastic feats. The quest for order and improvement is taken to its extreme, however, at the international clinic for the infirm described by Thomas Mann in *The Magic Mountain*. The sanatorium becomes nothing less than a kind of surrogate military regiment in which the patients obediently execute the chief doctor's orders. And for the patients, most of whom can no longer bear the thought of returning home (to the now foreign "flatlands"), the "magic mountain" becomes their true home, something deliriously intoxicating—an excuse for enjoined passivity.

IT'S POSSIBLE THAT I MYSELF WAS similarly lulled into a somewhat related enterprise—joining the masses in America's national home improvement project. And, indeed, it involves a regimen as predetermined—if less sedentary—as that followed by the patients at the magic mountain: first you sand the floors, then you polish them, and so on. Still, I like to imagine that my efforts fit into a more laudable trend. After all, fixing up the old homestead might even be seen as a patriotic act, if not a duty—or, at a minimum, a gauge of the mental health of society. Consider what it signifies about the state of a country when indolence and lassitude prevail. In his novel *Oblomov*, Ivan Goncharov uses the collapse of housing and estates as emblematic of the decline of the Russian aristocracy in the nineteenth century. The story revolves around the sybaritic Ilya Ilyich Oblomov, whose last name has now become synonymous with sloth. Oblomov falls into an extended reverie about his childhood on his parents' sprawling country estate, Oblomovka. While the house and farm slip into disrepair—the bridge is only fixed after a workman falls through it with his horse and water barrel—the family listlessly sleeps away much of the day, bestirring themselves only to swat at the occasional buzzing fly and to gorge themselves at lunch and dinner. "It was a sort of all-absorbing and invincible sleep, a true semblance of death. Everything was dead, except for the snoring that came in all sorts of tones and variations from every corner of the house," writes Goncharov.

THE ONLY FIGURES IN GONCHAROV'S novel who aren't completely idle are the German immigrants who beaver away to improve their own lot. This drives the Russian characters wild. One condemns as a "crafty rascal" a successful and efficient German expatriate named Andrei Stolz (whose last name is the German word for "proud"), who becomes nothing less than a court counselor.

IF DOMESTIC DECREPITUDE IS THE hallmark of national decline and industrious remodeling the sign of national strength, America does not have much to worry about. For, as I've quickly discovered, once one sets off on the home improvement road, it's hard to get off. Already the new paint job is leading to conflicts that I never knew could exist: now that the dining-room walls are painted "spiced cognac," should the ceiling be painted the same color? A number of friends have inspected the room only to offer divergent views. Meanwhile, the crushed-red-pepper molding in the upstairs living room means that the plaid 1950s-style chairs, so my fiancée tells me, may have to go in the attic bedroom. Then there's the burning controversy about the desirability of blinds versus curtains. And I, in turn, have trapped myself, at least for the moment, into keeping my stereo in the living room because of the dedicated lines I installed to improve the sound. But forget about me; my father just sent me a letter informing me of the refurbishing now taking place in his house. When even my lackadaisical parents have contracted the improvement bug, things have really gotten out of hand.

JACOB HEILBRUNN

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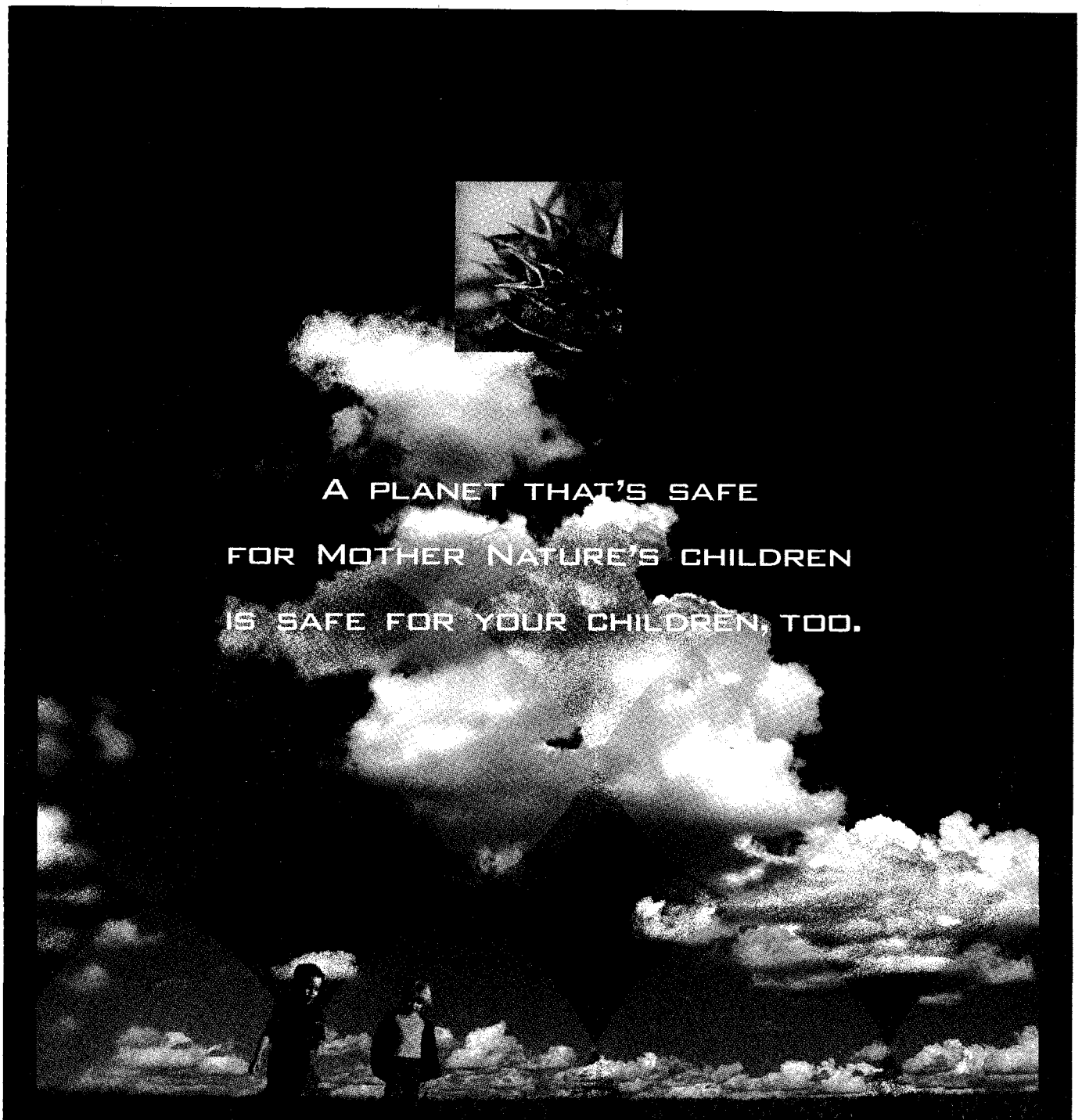

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